

# YJB Case Management Guidance (Updated Feb 2024)

**This manual is for youth justice service practitioners and managers.**

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[Section 37 of the 1998 Crime and Disorder Act](#) states: “It shall be the principal aim of the Youth Justice System to prevent offending by children”.

You can read more about the Youth Justice Board’s (YJB) work towards this aim in our [strategic and business plans](#).

The [national standards for children in the youth justice system](#) accompany this guidance and are intended to guide both strategic and operational services’ understanding of what is expected at each stage of a child’s journey through the justice system.

This guidance details how these standards should be put into practice. It includes current research and evidence and the [Child First guiding principle](#) runs throughout it. The following four tenets of Child First summarise what is important in youth justice:

# Section 1 - How to work with Children

Advice and information on how to work with children in contact with the youth justice system. It covers building relationships, supervision, developing interventions, meeting different needs, safeguarding, work with victims, restorative justice and dealing with non-engagement and breach.

## As children

Work recognises how children are developmentally different from adults and require different support.

## Building pro-social identity

Work promotes children's individual strengths and capacities to develop a [pro-social identity](#), focusing on positive child outcomes rather than just trying to manage offending.

## Collaborating with children

Work with children's progress, because you can't do youth justice to a child.

## Diverting from stigma

Promote supportive diversion from the criminal justice system where possible, or minimising stigma within it, as we know that stigma causes further offending.

## The role of the YJS case manager

All children should have a designated youth justice service (YJS) worker who is responsible for:

- engaging the child and building a positive relationship
- ensuring assessments are undertaken, kept up to date and regularly reviewed
- ensuring any specific requirements of the court are addressed in the order, or if adjustments need to be made, taking appropriate action (e.g. variation of the order; change activity within the scope of the order)
- working with the child and their parents or carers to plan engagement and work to be undertaken
- providing supervision through regular and agreed contact and being accessible to the child (and their parents or carers) throughout the period of contact with the YJS (includes maintaining contact with children who are remanded or sentenced to custody)
- reviewing the progress of the order when there is significant change (and at least every three months) with the child (and their parents or carers) and adjusting if a re-assessment or re-formulation of plans is necessary to achieve positive outcomes
- managing [transitions](#) to adult or other services
- managing closure of the order/contact with the child (including early revocation of the order because of positive progress made). In doing so ensuring that the child has their needs and rights met as well as any on-going support required to maintain progress beyond the end of an intervention

If the child is placed out of area, there will also be specific considerations depending on:

- the reason for the placement
- its likely length
- the child's status in the justice system

- whether caretaking arrangements are necessary for delivery of the court order

Children who are looked after by their local authority remain the responsibility of their home YJS, but day-to-day delivery of interventions and support may be provided in the area in which they are living. More information is within the [case responsibility](#) section.

Working with children should be a dynamic process as circumstances, problems and positive events may affect the child's circumstances and needs. Your aim should always be to:

- help the child to develop a positive self-identity
- encourage desistance by assisting them to engage with individuals and agencies who can support them
- undertake strengths-based work to help the child to develop a positive view of themselves and their place in society; and a safe lifestyle

The relationship you build with the child will be pivotal to this. In addition to your relationship with the child you must also build a relationship with the parents or carers. This will start from the initial assessment and be maintained throughout the child's contact with the YJS. The parents/carers understanding and involvement will be crucial to the child's success. More information is within [how to support parents and carers in the youth justice system](#).

You will undertake some of the work directly but will also ensure that the support and activities being provided by others are co-ordinated and delivered (e.g. the different requirements of a Youth Rehabilitation Order).

You will need to develop relationships with different services to obtain information to inform assessments and plans; or to gain access to services for children (or help them to re-connect to services previously providing support). To do this you will need a good knowledge of the resources available, such as:

- resources within the YJS
- services provided by statutory bodies
- programmes and services run by voluntary and community organisations
- youth services
- education and other provision in custody

You should be prepared to act as an advocate and broker on behalf of the child and ensure that they are able to access the services and support they require to meet their rights and needs. This will also reduce the likelihood of offending. This may be a central role that you play and require commitment and perseverance. There is a range of resources and tools available on the [Youth Justice Resource Hub](#).

### **How to build a relationship with a child**

The basis of any work with children should start with the development of a relationship with them. The care and concern you demonstrate will contribute to them feeling valued and developing a positive pro-social identity. To do this it is important to:

- demonstrate empathy
- respond to their needs and what is important to them
- respect their individuality

- not define them by their previous behaviour or offences, or their current behaviour which might limit future possibilities

Children may have been negatively affected by relationships but can be supported to lead more positive lifestyles through trusted, quality relationships. You can build trust by being reliable and showing respect, for instance by being on time and keeping any promises you have made.

You should be aware that children in the justice system may have experienced events which have impacted on their behaviour and are associated with experiencing trauma. Adverse childhood experiences can relate to personal experiences of abuse (verbal, physical and sexual) and neglect or they can relate to growing up in an environment where a child may have felt unsafe and uncared for due to the behaviour of their parents or other individuals living in the same household (e.g. because of family conflict, domestic violence or parental inability to properly care for them). Other experiences which may be linked to trauma include bereavement, involvement in, or witnessing gang violence and various forms of exploitation. Children may also have had negative experiences with authority figures, including labelling and discrimination.

Trauma can have a substantial impact on children's ability to form positive attachments and bonds with others. They may find it difficult to establish a trusting relationship with the professionals supporting and assisting them. The first stage when working with children who have experienced trauma is to recognise the possibility that they may have experienced it and to work with them in a way that can help them to:

- experience the youth justice service as a safe and secure base
- develop and maintain a trusting relationship with those working with them
- build on this relationship and develop social bonds with others and in their community

Building a trusting relationship may not be easy and will require time and perseverance. It is also likely to require self-reflection on your part and understanding as to why a child might respond in a particular way. The [Youth Justice Resource Hub](#) contains materials to assist in developing relationship-based practice. Trust will include setting and maintaining appropriate boundaries, not promising confidentiality if the child confides concerning information to you, responding to their concerns and taking them seriously.

The Youth Justice Institute has developed a [relationship-based practice framework](#), an evidence-based model designed to promote desistance with children, including, promoting trust and problem solving.

### **When contacts need to be face-to-face**

You will need to consider how you maintain contact with the child, engage with and supervise them. The nature of the contact will be determined by the needs of the child and how best to safeguard both the child and others. It is likely that this will be a blended approach, with both face-to-face meetings and contact via technology and social media. Face-to-face contact however remains essential and will help you to:

- assess the child's home circumstances and living arrangements
- check for welfare and ensure public protection
- build a relationship and undertake specific work

However, the scope to work with them in other ways should also be explored. This should depend on their preferences and be balanced against the need to manage any public protection concerns and the amount of contact which is appropriate in each circumstance. The aim should be to develop an appropriate blend of contact that is effective and safe for the child, victim and community. Particular consideration should be given to how children who have committed internet enabled offences are supported.

Initial assessments of the child's and family situation should ascertain the equipment to which they have access, how comfortable the child feels with this type of contact and how they are able to engage with it when planning contacts. The COVID-19 pandemic has shown that youth justice services can successfully engage with children in a variety of different ways using different technology (e.g. Zoom, WhatsApp, FaceTime etc). This offers the scope to plan interventions using online resources such as YouTube and to record messages and advice which can be sent to children and their families.

### **How to involve children in the planning process**

You should ensure that children are active participants in developing the intervention plan. It should be a learning process which enables them to:

- think about how they would like to be in the future
- consider their goals and aspirations
- develop personal competence (e.g. self-regulation and motivation)
- acquire the skills necessary to achieve this

As part of the maturation process children need processes and support to help them to navigate to these end results and acquire a pro-social identity.

You should engage the child from the outset to think about their plan, the barriers in their lives and how these can be overcome. The way they respond to an intervention can depend on a range of factors including:

- previous experiences of the justice system
- their motivation; their support networks and associations
- learning styles
- other identified challenges

You should actively encourage children to participate in the development of their plan, to review what is and is not working and why. They should be empowered to try and find their own solutions and to identify and pursue their own goals and aspirations.

Parents and carers should be actively involved to develop a shared understanding of the situation and how they can best support their child's progress. More information is within [how to support parents and carers in the youth justice system](#).

You should always provide the child with a copy of their plan so they understand its contents, can see their contributions reflected and to reduce potential anxieties about what they may be asked to do. This might not be in a written format and could be pictorial, or an audio recording – you should be led by what best meets the needs of the child. Some examples of materials for children are on the [Youth Justice Resource Hub](#).

### **How to develop an intervention plan**

An intervention plan is required for all children on court orders or otherwise supervised by a youth justice service (YJS). The plan translates the assessment of what the issues might be for a child into what needs to be done to tackle these and the action required.

The plan is produced by the child with their YJS worker. It will identify all actions required to meet the child's needs and any other actions which can support the child to lead a positive and safe lifestyle. The YJS

worker should review the plan at regular intervals with the child (and their parents or carers) and amend as necessary.

Once the Explanations and Conclusions section of the AssetPlus Framework has been completed, the intervention plan can be developed. This requires judgement about:

- what the child feels is important to them
- how needs will be addressed
- what conditions of the order must be met (and how)
- how relationships will be developed to give the child a sense of security with the YJS
- the length of the order; what to do when and how activities are prioritised
- how strengths-based activities will feature in the interventions delivered
- whether the child needs to be referred to an external agency for specific help and support (or whether an existing referral needs to be followed up)
- whether there are any practical problems which need to be resolved to help the child to develop stability

AssetPlus also asks what can be done to help the child to develop goals and life opportunities and how they will:

- not offend
- protect everyone from harm
- keep safe
- repair harm, encourage a sense of closure and help the child move forwards (through restorative justice)

The intervention plan needs to:

- relate to issues identified in the assessment
- address any requirements of the court
- identify with the child (and their parents or carers) what would help them and provide them with opportunities to make changes in their lifestyle for themselves
- build on positive factors/relationships in their lives
- encourage pro-social attitudes, values and relationships
- not interfere with attendance in education, training and employment
- enable the child and their parent or carer to see the progress that the child is making

You should always discuss culture, heritage, background and any experiences of discrimination and racial abuse and record these when planning interventions (and in delivery and review of progress made). You should consider:

- how these factors may have contributed to the child's offending
- the impact on them, how they might be limiting opportunities
- how structural barriers can be overcome

Your plan should take account of children's life experiences and personal circumstances to ensure that wider needs are addressed.

### **How to complete the Pathways and Planning section of AssetPlus**

The Pathways and Planning section of AssetPlus highlights the areas in the assessment where further action is identified. The intervention plan should address each of these and integrate actions which:

- build on strengths and create resilience
- support desistance
- protect the public

You should give particular consideration to children who have experienced problems with attachment and trauma when developing their intervention plan. However, the principles of trauma-informed working apply to all children irrespective of their background. You should consider how you can incorporate the following when planning and delivering interventions:

- safety: assist the child to feel physically and emotionally safe and remain so
- trustworthiness: expectations are made clear and are consistently practiced helping to build relations with the child
- choice: children's preferences are considered in routine practices and crisis situations wherever possible
- participation: input from children is incorporated in decision-making
- empowerment: opportunities to maximise children's empowerment are identified, recognising strengths and protective factors, and building skills to assist them in the future

### **What children say about YJS supervision**

Children identify that they want a good relationship with their worker. This was evidenced in the [evaluation of the enhanced case management approach](#). You must be someone they can trust, who has empathy, who is reliable, does not let them down and who helps them to explore their interests and what they might do in life. They want to feel cared for and valued as individuals. They also want to be able to feel they can manage what they are being asked to do. This is helped by not being overwhelmed by multiple professionals and numerous appointments.

In its thematic inspection of [the experiences of Black and Mixed heritage boys in the youth justice system](#), HMI Probation identified that the skills, understanding, knowledge and integrity of the worker and the relationship they form with children are the most important factors in promoting meaningful and effective engagement and helping children to feel listened to and understood.

### **How to prioritise and sequence work with the child**

When intervention planning, you should sequence the work in the most effective and manageable way for the child. This should take account of what the child requires at any stage of their contact with the youth justice service (YJS), any stress or difficulties they may be experiencing and the help they require to develop structure and routine throughout their period of contact with the YJS. You should consider:

- the child's developmental needs, maturity, ability for cognitive engagement
- their learning style, speech, language and communication needs, learning difficulties and disabilities
- experience of trauma and evidence of harm to themselves (because of adverse childhood experiences, exploitation etc) or others (public protection concerns)
- the type and severity of the crime committed

- working with the child to identify their skills, strengths and goals
- prioritising actions that will be most effective in meeting their needs to lessen the likelihood of offending (may not always be offence focused work)
- developing a collaborative approach by undertaking joint activities to support relationship building and learning
- providing choice, where possible and appropriate
- how the child's engagement can be sustained
- not overloading the child with services, workers and activities
- assessing where the child is in their understanding of their behaviour and willingness to engage

**Other factors which are relevant when considering how best to sequence interventions are:**

- ensuring the number of workers and activities the child is expected to engage with is manageable for them
- carefully considering how new workers are introduced, particularly if the child has difficulty forming attachments
- providing a consistent point of contact for the child and ensuring they know who they can talk to if they are experiencing difficulties with anything they are being asked to do

**When finalising the plan questions to consider are:**

Is the plan proportionate to the gravity of the offending behaviour and the likely length of involvement with the YJS?

Does it address key issues and concerns in respect of public protection?

Does it address key issues in relation to the safety and well-being of the child?

Does it fully take into account the child's diversity needs and protected characteristics and how responses should be individually tailored?

Is it realistic and achievable?

Is it sufficiently tailored to the child's needs and meaningful to them?

Will it help the child to develop a pro-social identity?

**How to support children's participation and co-creation**

The child's right to participate in decisions which affect them is one of the guiding principles in the [United Nations Convention on the Rights of the Child](#). The Convention is explicit in stating that this right extends to children involved in administrative and judicial proceedings indicating that children should be able to express their views in all matters which affect them.

This can be interpreted as throughout their engagement with the criminal justice system and when working with youth justice services (YJSs). This gives children the right to be involved in planning and reviewing actions which directly affect them as individuals. Co-creation means designing a project or activity jointly with children and is a further element of participatory practice.

Assessing and working with children should be a participatory process in which the child is encouraged to identify what matters and is meaningful to them. They should develop aspirations and be supported to achieve their goals to lead happy, healthy and safe lives. Participation can occur in different ways:

### ***Understanding***

It is important to ensure that children understand the processes they are involved in (in the police station, at court, under the supervision of the YJS and whilst in custody), are supported throughout those processes to be able to make informed choices about their future and are afforded continuous opportunities to express their views and feelings.

### ***Feedback***

You should ask children for feedback on the service they have received from the YJS, for example by using the 'What Do You Think' element of AssetPlus or using other bespoke self-reporting tools for children in the youth justice system. The YJS may also want to consider other ways in which it can involve and consult with children about the services they have received to inform future direction and develop a feedback cycle so that children can see that their views matter and are considered, or where this is not possible to understand the reasons why.

### ***Information***

You should explore ways in which the child can provide information to the YJS management board so that it is able to directly hear from and engage with children about their involvement with the service, their priorities and to draw on their expertise.

### ***Opportunities***

You should provide enhanced opportunities for participation where children can share their knowledge and observations, for example by contributing to the design and development of a service or activity, information which is provided to children about processes or activities, participating in an event the YJS has organised or taking part in recruitment activity.

Opportunities for participation should not be limited by the perceived constraint that children in the criminal justice system have little or no choice and the child/worker relationship is not equitable. Whilst there are activities children must undertake (and understand the reasons why) and conditions of orders which have to be met, there are always opportunities to explore what can be done to jointly co-produce activity with children to give them a sense of agency, identity and empowerment.

HMI Probation produced [supporting childrens meaningful participation in the youth justice system](#).

This document provides useful information including a 'How To' guide for co-creating children's meaningful participation in a youth justice setting.

Peer Power developed this [suite of resources](#), including an exploration of participation in youth justice (explaining some of the barriers and enablers), what children feel are priorities for youth justice services regarding participation and co-creation, a resource pack explaining how to develop practice and a short series of films highlighting the same.

### **How work should be undertaken**

Most work undertaken with children is on an individualised and bespoke one-to-one basis. A plan should be developed which takes into account the uniqueness of each child and factors identified in the assessment. Different interventions are required depending on the child's needs:

- the identification of specialist help and support (for example, from substance misuse services, CAMHS or other health services which provide emotional and mental health support)
- activities and engagement which will support and encourage desistance by helping the child to understand and learn about the impact of their offending on themselves and others
- engagement in mainstream community activities and with community groups which can broaden horizons, offer a sense of belonging, help children to work towards their future goals and aspirations and promote social inclusion
- help to build strong and supportive relations with others which can assist the child develop positive purpose, identity, beliefs and values

Proposed activities should be discussed with and explained to the child. They should be encouraged to set their own goals and objectives and where possible and appropriate, exercise choice so that activities assist them to acquire a positive sense of direction in life.

The content of the intervention should have relevance to the child's life, and methods should be used which engage, interest, motivate and are meaningful to them and enable them to participate fully. Materials and methods should reflect:

- different stages of development (including the impact of trauma)
- maturity
- disability
- sex
- sexuality
- community, ethnic and cultural backgrounds

Successful outcomes depend on children being motivated to take up and engage with interventions. To actively involve and engage children, workers should:

- be aware of the child's perceptions
- communicate with them in an appropriate way
- have clear values and purpose
- be consistent, reliable and predictable in interactions with them
- give consistent feedback
- be solution-focused and encourage small steps towards change
- model problem-solving and pro-social behaviour
- be open, active, optimistic and realistic

There are a wide range of tools, techniques and approaches which can be used. For example:

- the [Good Lives Model](#) (which enhances well-being to support desistance)
- [motivational interviewing](#)
- [pro-social modelling](#)

[The Youth Justice Resource Hub](#) also contains details of interventions which have been found to be effective in the sector.

### **How to deliver group work and group interventions**

Consideration may be given to delivering some work on a group basis, for certain types of activities e.g. learning through sport and undertaking practical activities.

If you choose to deliver directly to groups of children, you will need to have processes in place to manage the composition of the groups and how children will be identified who might benefit from this approach. Age, maturity, sex, knowledge of each other (because of gang and post code tensions) and the types of offences committed would need to be assessed when putting a group together, so that children feel safe with each other and can work in an environment which promotes learning and engagement.

Where group activity takes place in localities which are affected by gangs and affiliations to specific groups you should give special consideration to ensure the safety of all concerned. Venues should be accessible and safe, with risk assessments in place which follow local procedures and safe working practices. This includes whether [weapons detection systems](#) are in use and how that is communicated to the child.

Group activities should be scheduled at a time which does not clash with education or training activity with which the child is already engaged and any curfew requirements they may have. Attention should be given to how children will get to and from the venue safely.

### **When to visit children at the accommodation in which they are living**

Face-to-face visits with children at the accommodation they are living in can:

- be part of contact arrangements
- be used to promote engagement
- respond to well-being concerns
- be part of risk management arrangements for serious harm and/or safeguarding

Visits inside the property may not always be appropriate, for example where there is a risk of harm to workers due to parents refusing admission or illness in the household. Visits could, however, take place outside of the property, giving consideration to confidentiality and the nature of the discussion with the child (and their parents/carers) etc.

Face-to-face visits should be risk assessed to ensure the safety and well-being of all concerned and be authorised by a manager in the youth justice service (YJS). You should be familiar with the local authority/YJS policy in relation to home visits, lone working and safe working practices in the community. This includes public health advice about social distancing and other health concerns.

When a concern arises from a home visit, workers should know what action to take and who to escalate them to. For example, if it relates to safeguarding, a referral may need to be made to children's services.

### **How to work with other agencies when developing intervention plans**

You have a responsibility to arrange and co-ordinate services and plans to ensure that all work with children (and parents or carers) has the best possible chance of success. At the same time, it should ensure that children and their families are not overloaded with different workers and competing demands. This is likely to overwhelm and demotivate the child and their parents or carers and decrease the likelihood of success. You should be familiar with the referral criteria and pathways into different services.

If work is being delivered on behalf of the youth justice service (YJS), the case manager should monitor service delivery with the provider to ensure that:

- they are delivering what was specified in the intervention plan
- the child is attending as required
- the work remains relevant, particularly if the child's circumstance, situation and response changes

If intervention plans are complex or have multiple components, such as combinations of criminal justice, health, safeguarding and welfare elements, it may be helpful to convene a multi-agency meeting or to discuss the child at any multi-agency panels or meetings the YJS already attends/hosts. This is to ensure that information is shared across agencies, collective actions are agreed, duplication is avoided and there is a clear joint plan for the child.

For further information, please read:

- [How to manage Multi Agency Arrangements](#)
- [How to safeguard children in the youth justice system](#)
- [How to manage the likelihood of harm through multi agency arrangements](#)

If the child is discussed as part of formal multi-agency discussions such as [How to manage multi-agency public protection arrangements](#) or other networks addressing gang-related issues, safeguarding or risk of harm meetings/panels, notes of these meetings should be attached to the child's case file and actions for each agency clearly recorded. If there are concerns about the response or lack of response of any partner agency, this should be raised and escalated through line management and locally agreed processes and procedures.

Where possible, assessment, planning and review schedules across different agencies (children's services in particular) should be aligned for consistency to ensure that information is effectively shared and up-to-date and that plans reflect the actions each agency is taking. Wherever possible, children and parents/carers should be present, at least for part of the meeting.

### **What you need to know about information sharing**

When you share information with other agencies and individuals about a child, you must consider:

- necessity and proportionality: personal information should only be shared when necessary to promote the safety of an individual or the public
- consent: wherever possible this should be obtained in advance, but lack of consent may be overridden where there is a safety concern
- data protection: You should be aware of your duties under the General Data Protection Regulation (GDPR) and local policies and procedures

### **How to supervise children who deny they have offended**

There may be instances where you are developing plans and supervising a child who denies they have offended or denies involvement in specific aspects of the offence of which they have been found guilty.

In these instances, the emphasis should be on focusing on future behaviour and building the child's strengths and capacity than re-visiting past behaviour.

### **When supervision can be suspended**

The youth justice service (YJS) has the authority to approve variations in supervisory and contact arrangements where there is an acceptable reason for doing so. Acceptable reasons could include illness, bereavement or becoming a parent. A senior manager in the YJS should approve an agreed period during which reporting will be suspended. This should include consideration of whether it should stop entirely or whether face-to-face contacts are decreased, and telephone contacts increased, depending on the circumstances.

When taking these decisions, managers should consider the length of time the child has been on the order, their engagement and the seriousness/significance of the issue giving rise to the request.

Children and their families may request a suspension in supervision arrangements for a planned holiday. Decisions about such requests must be taken by a senior manager in the YJS. When taking such decisions managers should have regard to the:

- risks to public safety posed by the child
- seriousness of the offence
- length of time the child has spent on the order
- number of contacts which would be missed
- child's engagement to date

The YJS has the authority to refuse such requests if it considers that continued engagement with the YJS is necessary.

Where the decision is taken to support a request to suspend supervision for longer than a month, an application should be made to the court to vary the order and allow for the agreed and specified break in supervisory arrangements. The YJS case manager should confirm the proposed holiday address and travel details, with copies of the travel arrangements (e.g. flights) if the proposed destination is abroad. Holidays cannot be approved if the child is subject to bail conditions. If it is evident at the start of the order that holiday arrangements have been made, these should be discussed at the earliest opportunity to indicate the likely course of action.

### **When to review progress against the intervention plan**

Intervention plans should be reviewed at regular agreed intervals with the child's participation throughout the order, at least once every three months; and more often particularly if positive events or setbacks occur. This enables you and the child to reflect on progress made regarding safety and well-being and desistance from offending; and consider revocation. This should include obtaining information from agencies and professionals who have been working with the child to ensure that:

- there is a shared understanding
- all relevant and current information is assessed
- the impact of changes in the child's circumstances are analysed and understood

You should review progress to identify if the plan put in place is having the intended effect and how the service has engaged with the child and options for early revocation. The review process should incorporate:

- on-going assessment
- engagement with the child (and their parents/carers)
- discussion of progress and setbacks

Amendments to the intervention plan should be made as necessary in response to any significant incident or change in circumstances. Children should be invited to comment on what is and is not working well for them, rather than simply being given feedback.

Any work undertaken should maximise the chances of helping children to re-frame their experiences, build self-efficacy and identify how any structural barriers to progress could be removed. Case recording should reflect any changes to intervention plans and the rationale for them.

### **How to manage the end of an order**

When a court order is nearing conclusion, you should discuss with the child (and their parents/carers) what help and support they feel they need and how this can be provided to support desistance. This will help towards the development and maintenance of a pro-social lifestyle. This could include:

- referring the child to mainstream and/or specific services in the local area
- arranging support from a third sector organisation or other community-based service which provides youth support/mentoring/outreach
- identifying individuals or agencies the child can contact if they need help or someone to talk to

These ongoing support mechanisms should be put in place well before the end of the order, to avoid placing the child in a vulnerable position. [How to manage transitions](#) contains more information about how to plan for the ending of relationships.

### **How to plan interventions and recognise diversity**

You have a responsibility to:

- treat children with fairness, dignity and respect
- promote their well-being irrespective of who they are and what they have done
- create safe environments and relationships that support children and are sensitive to individual difference and diversity

[The Equality Act 2010](#) protects people against discrimination, harassment and victimisation in relation to the provision of services and support to them. This covers:

- age
- disability
- gender reassignment
- marriage or civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

When planning and delivering interventions youth justice service workers should ensure that they provide equality of opportunity to remove/minimise any disadvantage associated with a child having protected characteristics and meet their needs to promote inclusion.

You should be aware of overlapping needs – for example some children may have neurodivergent conditions or mental health needs as well as another protected characteristic. You should also be aware that educational needs are often not identified in some groups, including Black children and girls.

### **How to adapt for the child's sex and gender**

Sex is biological (male or female), while gender may not be binary. 'Feminine' or 'masculine' is sometimes used to describe behaviours and/or feelings. [The Equality Act 2010](#) protects people against discrimination, harassment and victimisation in relation to the provision of services and support to them.

Some people do not express their gender in the way society expects for their biological sex, for example girls as 'tomboys'. When taking decisions about the composition of groups, for example for reparation activities or residentials, you should always distinguish and separate by sex and not by gender.

Girls are recognised as having different needs and experiences from boys and their reasons for offending can differ as well. Abuse and unsettled relationships (linked to violence and victimisation) may feature in their backgrounds and the reasons for their involvement in the criminal justice system. This would suggest that recognising the likelihood of trauma and taking a trauma-informed approach may be an appropriate way of working. Strengths-based approaches also include helping the child to:

- feel safe and secure
- feel empowered
- develop self-esteem and self-confidence

Positive, supportive and healthy relationships may help to address their individual needs and experiences and practical and emotional support should be provided. Attention also needs to be given to who the child feels safest in working with (e.g. a male or female worker). You should also account for any pregnancy and parental/caring responsibilities e.g. considering flexible appointments, the location and length of appointments.

Some children may be considering their gender identity, and may identify as transgender, or non-binary. Your response to this should be delivered in a non-judgemental and factual way, so that children are equipped to make safe, informed and healthy choices. It is important that your response does not reinforce stereotypes or encourage harmful behaviour.

### **How to adapt for a child's sexual orientation**

Exploring sexuality and sexual orientation is a normal part of growing up. Children may have a clear view of what is right for them or may be exploring or feeling unsure about their sense of self. Their views may also change over time. Recognising the child's sexuality (for example, lesbian, gay, bisexual, straight) and the way that the child refers to themselves conveys openness, respect and sensitivity. Children who are exploring who they are and their place in the world may need the support of a trusted adult (because of difficult experiences at home, bullying and/or discrimination (in-person and/or through social media)).

When developing a relationship and the support a child needs you should explore what needs to be addressed to experience the youth justice service as a safe and inclusive place, and whether support from specialist community organisations would be beneficial.

### **How to adapt for a child's race and ethnicity**

The definition of race under the [Equality Act 2010](#) includes colour, nationality, ethnic origins and national origins. This includes [Gypsy, Roma and Traveller people](#).

It is well established that children with a Black or Mixed ethnicity are [disproportionally represented at all stages of the criminal justice system](#). A [thematic inspection of the experiences of Black and Mixed heritage boys in the youth justice system](#) identified that discrimination is prevalent, and that disproportionality is not being sufficiently addressed.

HMI Probation suggest that there need to be a number of actions to address this. These include:

- having a clear understanding of what is driving disproportionality locally
- what the needs are with an action plan to address

- establishing effective processes for gaining feedback from children from over-represented groups on the services they receive and use this feedback to assess, review and improve the quality and suitability of service provision
- ensuring staff have the confidence to discuss culture and/or experience of discrimination and will escalate concerns when there is evidence of discrimination
- making sure that staff understand what is expected of them in their work with boys with Black and Mixed ethnicities and that they are inducted, trained and supported to work effectively with this group of children
- considering the impact of discrimination in assessment
- exploring the impact of these experiences and the challenges being faced
- better use of services commissioned specifically for Black and Mixed ethnicity boys that are integral to and not 'add-ons' to interventions
- working with partners to remove barriers in access to services
- providing effective support to parents and carers to promote engagement
- improving the quality of management oversight to make sure that it is sufficiently focused on diversity and what this means in practice and that there are clear escalation routes to address any barriers to specific groups accessing the services they need
- addressing gaps in specialist provision for particular communities, either by delivering it in-house or by commissioning it from appropriate local community organisations and evaluate referral and uptake rates for the services provided

HMI Probation produced [guidance](#) that provides further insights into effective practice when working with Black and Mixed ethnicity boys.

### **How to adapt for the child's faith, religion and belief**

When working with children, religion, religious belief and philosophical belief should be recognised and respected. Religion and belief may be significant for the child and their parents/carers and influence what it is appropriate for the child to undertake in their intervention plan. Religion and belief may be a supportive factor and links to community faith groups can offer the opportunity for pastoral support, mentoring and practical assistance. You should avoid arranging activities that interfere with religious observance including religious holidays and festivals.

### **How to adapt for disabilities**

The Equalities Act 2010 defines disability as physical or mental impairment that has a substantial and long-term negative effect on a person's ability to do normal daily activities. For children in the justice system these are commonly associated with emotional and mental well-being, speech language and communication needs and learning difficulties and disabilities (including attention difficulties – attention deficit disorder and attention deficit hyperactive disorder, dyslexia and dyspraxia) which may have an impact on what work is appropriate and how it is delivered.

You should consider shorter sessions, a mixture of written, pictorial and active learning resources and regular breaks when working with children with additional needs. You may also refer to a speech and language, mental health or disabilities specialist for advice on tailoring supervision and suitable resources.

### **How to adapt for mental health**

Youth justice service (YJS) workers should seek advice from health experts in their teams to:

- assist in gathering information for the AssetPlus assessment

- determine what support the child needs if there is evidence of problems relating to emotional and mental well-being, and who it should provide it

Information gathering should include identifying if the child has an existing health diagnosis, has had any previous specialist health assessments or been referred to mental health services such as Child and Adolescent Mental Health Services (CAMHS). It should also include whether they have been referred/engaged in other activity such as counselling, family therapy (and what the status of their current engagement is) and how this will impact on what is expected of them.

The health input from psychology (where YJSs have access to it), CAMHS or other health specialists to which the YJS has access should help identify the referral pathway for the child to relevant health services. The YJS should also advise on how interventions and support should be delivered to take account of child's ability to participate and engage.

Trauma-informed and relationship-based approaches can help to build trust and engagement and encourage children to talk to about the issues that are concerning them and help them to cope with their anxieties. Children should be supported to attend health appointments and to engage with professional assistance.

### **How to adapt for speech, language and communication needs and neurodiversity**

Speech, language and communication needs (SLCN) encompasses a wide range of difficulties related to all aspects of communication in children. These include difficulties with:

- attention and listening
- comprehension
- forming sounds and words
- social communication

Many children in the justice system are also neurodivergent, and cases of autism and attention deficit hyperactivity disorder (ADHD) are often underdiagnosed. This affects how a child might convey information and how they receive and understand it from others. SCLN can also be a hidden disability and is not always formally identified, which might lead to misunderstanding of the child's behaviour.

Children with SLCN may have difficulty in following instructions and remembering what they have been told. This will have an impact on how they engage with their worker, the support of the youth justice service and comprehension of what they have been asked to do. It may also take time to build a relationship and to understand their needs.

Care should be taken to ensure children are able to engage and participate in interventions and the way in which they are delivered. Oral and written interventions may not be meaningful unless they are aimed at the right level of communication skill. Some useful resources to assist in understanding speech, language and communication needs are as follows:

- [speech language and communication needs in the youth justice system](#)
- [Nacro briefing on speech language and communication difficulties](#)

AssetPlus contains a speech, language and communication and neuro-disability needs screening tool to help to identify needs. A child with identified SLCN should have an Education Health and Care Plan (England) and in Wales if it is identified as an Additional Learning Need, an Individual Learning Plan.

If you have access to a speech and language therapist, they will be able to provide advice and guidance on engaging with children with SCLN and what type of resources to use. Resources are also available from a several specialist organizations, for example:

- [Sentence Trouble](#) is a guide to help improve understanding and communication with children
- The Royal College of Speech and Language Therapists have produced [The Box](#), a free online eLearning tool to help professionals in the justice system to identify and work with individuals with SLC needs
- [Afaistic](#) also provides a range of resources

### **How to adapt for physical health**

Assessment will identify whether the child has any physical health problems and if they are likely to have an impact on activity the child could undertake. For example, asthma or any other form of temporary or permanent physical disability.

The impact of substance misuse or acquired brain injury may also influence how well the child is able to look after themselves and/or is being looked after by others, behavioural inhibitions, the effect on everyday functioning and ability to engage in activities/interventions. Support may be required so that the child can access health care services e.g. a doctor or dentist.

### **How to work with children who do not speak English as a first language**

You should ensure that children can engage with the youth justice service (YJS) in their language of choice, particularly when it is evident that English is not their first language. This might mean having translation and interpreting services available and being able to deliver work in the child's chosen language. It is important that they are able to communicate in the way they are most comfortable with and are fully able to express themselves to reduce any barriers to engagement.

Public bodies in Wales have a duty to provide services in Welsh under the Welsh Language (Wales) Measure 2011. This is intended to enable people in Wales to communicate in Welsh if they choose to do so. Other languages may be predominant in the YJS locality and should be catered for.

### **Restorative approaches and how to use them**

Restorative approaches are part of the youth justice system and the requirement to undertake this type of activity can be part of an out-of-court disposal, a Referral Order or Youth Rehabilitation Order.

Restorative approaches support children to develop a 'pro-social' identity, and to help them to make a positive contribution to their community. Identity is the way we think about ourselves and our place in the world. It is shaped by our experiences in life and affects the way we think and behave. Children can be supported to develop a pro-social identity by helping them to engage in constructive activities, to develop beneficial interactions with others and to understand the implications of their offending with appropriate support. The focus of reparative activity should be to help the child to move forward by understanding and learning from the impact of their actions on the victim and community.

Restorative justice is an approach which can take many forms and therefore be tailored to the individual's ability, situation and circumstances. There should be a connection between the offence committed and the proposed activity and consideration of whether it should directly or indirectly involve the victim.

Reparation activity should:

- help children to recognise the positive contribution it (the reparative activity) can have for themselves and others (e.g. doing something useful for the community)

- help to build the child's sense of self-worth by identifying something they would be good at
- notice and praise the child's positive skills, qualities, attributes and talents
- help them to reflect on their behaviour and understand that actions have consequences
- be an opportunity to help the child to develop constructive interests and widen their horizons
- be purposeful forward-looking activity which helps them to learn from their mistakes

Restorative approaches support the child to find their own way of doing something for the victim or the community and therefore gain something positive from the process to encourage desistance and build a sense of community. Reparative activity should not be punitive, harmful or shaming and should be a safe process for all concerned. Restorative approaches should be driven by the aim to:

- engage children in their community
- be a learning process and help the child to think about what is important in the future and to move on from past mistakes

Further information on restorative justice can be found on [The Restorative Council website](#) and the [Association of Chief Police Officers website](#).

### **What restorative approaches are appropriate and when they are not**

Restorative approaches are intended to help victims play an active role in the justice process as well as helping children to learn from their actions. The nature and type of reparation can vary considerably.

It may involve direct contact between the victim and the child (if both parties agree and this can be safely managed) or take a number of indirect forms, involving doing something for the victim which does not involve personal contact, or doing something to assist their local community.

In selecting an appropriate restorative process for a particular victim and child, case managers and restorative justice practitioners need to think about what would be suitable. This is based on their discussions with the child and victim and is likely to be informed by:

- whether or not they want to meet each other
- how this could be facilitated
- whether other restorative options would be more appropriate

Decisions should be guided by an assessment of the risks, needs and wishes of both parties. Parents/carers should be included in the process.

Restorative interventions can follow a lengthy period of preparation as children and victims may need time to consider the options to make an informed choice about what they feel comfortable doing and may change their minds throughout the process of engagement.

This [best practice guide](#) provides further information on what to consider when assessing, preparing for and delivering various forms of restorative activity, the skills required and the processes to follow. [Crown Prosecution Service guidance](#) also provides useful information on restorative justice practice.

You should be clear about your reason for utilising a restorative approach with a child. Case managers have the responsibility for determining what the plan of activity should look like for the child and to agree it with them. This should be supported and informed by the views of specialist restorative justice workers within the service.

When assessing what form reparative activity should take, there is no 'one size fits all'. You should consider the child's maturity and cognitive ability; and use approaches which are meaningful to them and within their capability. This involves exploring what they feel they would like to do, what would make a difference, how this could be carried out and by giving them the opportunity to think about what would help them, their victim and community.

Restorative justice requires cognitive skills and the ability to:

- think things through and reflect on personal behaviour
- understand the consequences of any actions and the impact of the offence on the victim

Children who have experienced developmental trauma may be unable to do this until they have developed positive relationships, have processed some of their own trauma and have the perception to process the requirements of reparation. For further information, see [Trauma and ACE Informed Reparative Work](#).

Children who have learning difficulties and disabilities, speech, language and communication needs and other needs may also have difficulties with comprehending restorative approaches and processes. They may be less able to think about the impact on others or communicate their views and therefore have a voice which limits participation and engagement and the potential benefit. They may need additional support to take part, if reparation is considered appropriate for them, or require more creative approaches.

Direct reparation (letters of apologies/conferences) require executive cognitive skills and may be appropriate for children who are demonstrating emotional maturity and an understanding of consequences.

For this type of reparation to be effective, children must have experienced empathy and be able to have empathy for others. For children who have experienced trauma, this comes from having their own experiences of being a victim (e.g. adverse experiences) validated by a trusted adult.

This does not mean reparation cannot be undertaken, it is more a question of when, if it is to be meaningful. You should give attention to questions of timing. Where there is a victim, restorative approaches will only be effective when both the child and the victim are ready and able to engage in a positive way; and should not be used if this is not the case. Community reparation may be a useful way to prepare a child to undertake more direct reparation at a later stage.

Restorative approaches should be planned with the child and be supportive of their identity development and movement forward. You should be aware of the power dynamics on your relationship with a child in the justice system, and not aim to inflict shame or frame it as the child 'paying their dues'. Rather than repaying society, the child is re-engaging with it; facing the future and shaping their place in it

### **What services the YJS should offer victims**

Youth justice services (YJSs) are referred to as service providers under the [Code of Practice for Victims of Crime](#) and have several duties placed on them.

The Code states that victims, whether an adult or child are entitled to the following:

- information about the progress of the child's case upon request.
- information on appropriate victim services if a request for additional support is made

In the following cases, you must notify the [Victim Contact Scheme](#) about all relevant victims within one working day of sentencing:

- the child receives a sentence of 12 months or more for a violent or sexual offence
- the child is detained under the Mental Health Act 1983

All victims are also entitled to be offered the opportunity to engage in voluntary restorative justice activities. Victims can however ask for their details not to be passed on (to the YJS) if they do not wish to participate. In every case a decision must be taken to invite the victim to take part in a restorative activity taking into account:

- their wishes
- feelings and concerns
- any sensitivities in the case, including the vulnerability of the victim
- whether the child is able and willing to engage

The process should determine whether reparation is appropriate, what form it should take (direct or indirect) and what the victim and child feel comfortable with. The process should also manage expectations of what is and is not feasible, realistic and safe. Informed written consent must be obtained for every victim who agrees to take part in restorative justice or direct reparation.

All YJS staff who work with victims must receive appropriate training (including facilitating restorative justice processes, particularly mediation and conferencing) and be familiar with the Code of Practice for Victims of Crime.

Certain types of victim have 'enhanced entitlements. These are:

- vulnerable or intimidated victims (including victims under the age of 18 years)
- persistently targeted victims who may require specialised assistance)
- victims of the most serious offences (including a bereaved close relative)

You should also ensure there is a process to request and receive feedback from victims which you should periodically analyse and review. This might include numbers of:

- victims contacted and response rate (pre-court and for statutory orders)
- reparations offered and received by type e.g. direct or indirect reparation
- victims offered reparation but who did not want it
- instances where the YJS assessed reparation was not appropriate

You should also consider asking victims if they were satisfied with the service offered. There must be a complaints process in place so that victims who feel that their rights have not been met can raise their concerns. Complaints should be acknowledged and the processes and timescales for a response explained. Victims dissatisfied with the response may appeal to the [Parliamentary Ombudsman](#).

### **How to manage victim information**

All victim information obtained and held by youth justice services (YJSs) should be stored and shared in accordance with the General Data Protection Regulation (GDPR) and the Data Protection Act 2018. You should ensure that there are robust arrangements in place for managing information and ensuring it is retained only for as long as is necessary. You should follow local policies and procedures in this respect.

In managing protection of the public and risk of harm there will be instances where you can, and should, record the names of real or potential victims within the child's case record. You should note that the [Code of Practice for Victims of Crime](#) only covers actual and not potential victims. The critical factor in your decision is whether you consider there is a real and potentially significant impact for the victim or potential victim and their name needs to be recorded in order to mitigate against this.

If there is no or limited risk of harm, there is no justification for recording the victim's name on the child's case file. The victim's details should be held in a separate system. You may also record the following information:

- whether the victim is a child or an adult
- known or unknown to the child
- their sex
- their ethnicity

Recording victim's details on the child's case file without using the information for the purpose of preventing offending/reoffending removes the legitimate purpose for recording and may breach the Code of Practice for Victims of Crime and GDPR.

You may share the victim's details with the police, MAPPA or the probation service, for example, if it is within the context of public protection. However, information recorded should be kept to the minimum time necessary to help safeguard that individual(s) and the rationale for sharing must be defensible, clearly evidenced and recorded.

An example of when it is appropriate to record the victim's details might be where a child has made threats towards another child (also subject to YJS supervision) which are assessed as real and there is concern they will act upon these if the opportunity arises. In this instance it may be appropriate to include these concerns in the Risk Assessment and Planning Process in AssetPlus, for example 'to ensure that appointments with (named child) and (other named child) do not coincide with one another, to avoid the risk of physical harm from one to another'.

Given that plans should be shared with the child and their family you must ensure that you do not include the name of a victim/potential victim in any information provided. Where it has not been considered necessary to record the victim's details, it is important to be aware of where this information can be obtained should there be a change of circumstance which would necessitate the information being held.

As Data Controllers, YJSs should be aware of the lawful basis of recording such information and if further information is required the local authority should be consulted.

### **How to encourage engagement ('compliance')**

As the professional it is your responsibility to find ways to engage children. This involves being flexible, creative and responsive. In the child's first contact with you, you should explain to them the requirements of the court order; check they understand it and explain to them that it is important they work with the youth justice service (YJS) as it is what the court is expecting them to do. They also need to understand what will happen if they do not attend or engage and that, if this occurs, the YJS will have to consider what action to take as a result.

It is good practice to provide a written document or 'contract' with the YJS which sets out what they are required to do, such as attending appointments as agreed and not attending under the influence of any substances. One way to check understanding is to ask the child to explain in their own words what they

think is required of them. It is important to recognise that it may not be sufficient to explain things once, as children may forget what they have initially been told and may need to be reminded about what they need to do.

At the start of the order you should explore with the child how they will work with you, for example whether they are required to attend appointments in particular locations, whether your contact with them will be remote (such as through video links or other social media) or a mixture of both. If the child is required to attend a particular location, you should explore whether they feel safe to do so; or are likely to experience any difficulties with attendance which affect how contact is arranged. You should establish that:

- the child can tell the time
- they are able to get to the appointment location, know where it is and how they will get there
- any support they need to maintain their appointments is available
- they have access to IT e.g. phone and/or laptop and are able to engage with the YJS through these means

All staff and services working with children in the justice system should make every effort to encourage children to participate in and engage with support. This might include:

- tailoring interventions to the individual child, taking into account any mental health concerns, or speech, language and communication needs
- tailoring the service to meet the child's cultural and diversity needs, and recognising past adverse experiences and trauma
- setting appointments at a set time each week to help the child remember to keep them
- reminding the child about their appointments by text or phone call; or using social media methods with which the individual child is familiar and comfortable
- ensuring appointments do not clash with education, work, religious observance, other service appointments or any preferred activity for the child
- praising the child for progress and achievements, even small steps
- addressing early any challenging behaviour in sessions, lateness or problems with engaging the child and tailoring your approach accordingly
- informing and involving parents, carers and other significant professionals or relatives of the child's progress and enlisting their support in encouraging engagement, including using engagement/compliance panels as necessary
- treating the child at all times with respect and courtesy, remaining professional and avoiding over familiar behaviour

### **Early revocation**

After the halfway stage of an order has been reached, you should always consider an application for early revocation of the order if:

- the requirements set out in the initial plan have been met
- there has been significant progress in the priority areas originally identified in assessment
- the child has positive factors or engagement with universal services meaning progress is likely to be sustained

You do this by making an application to the court and providing a report on the child's positive engagement and progress. In the case of a Referral Order, the case must first go to a progress panel, who will take the decision as to whether to make the application.

Early revocation should always be considered as an option when these criteria apply. If the application is unsuccessful, a further application may not be made for another three months.

### **How to respond to non-engagement ('breach')**

It is incumbent on you to make every effort to engage children in completing their order. The use of breach should be limited to those exceptional circumstances where all other options for engagement have been unsuccessful. The breach of a court order is a criminal offence and every effort should be made to prevent this and ensure the child's full engagement.

The first aim of any youth justice service (YJS) worker is to engage the child, so barriers to achieving this need to be viewed as the responsibility of the adults rather than the child. There should be a general presumption against taking breach proceedings, unless there is a very good reason. This might include an urgent concern about public protection; or a further serious offence.

High incidences of breach action taken against children indicate that there is an issue with the performance of the service and its ability to engage children. Evidence indicates the more frequently a child is taken to court, the more negative the outcomes for that child are likely to be. This means that breach action should only be taken as a last resort.

If a child misses an appointment, you should follow this up with them and their family to establish the reason (for example, sickness, lack of transport, forgot the appointment), and what could be done to support them in the future. If the reason is not acceptable you may choose to record a warning. You should also stress that you want to continue to work with them and help them to complete their order successfully. If more than one warning is given, you should use local procedures to investigate what more can be done to improve engagement; such as an engagement/compliance panel. Court processes should not be used as an alternative to warnings.

Serious concerns, such as an act of violence or public protection concern, may lead you to consider taking breach action. In some circumstances, you may also be considering breach as a result of problems with engagement. The judgement on whether or not to breach should be signed off by a manager of operations level at minimum, and include the following:

- the stability of the child's living arrangements
- the child's attachments and relationships – including whether they have trusted adults who can support them keep the appointments
- the evidence on what has worked well and not worked previously to engage the child
- whether the child has the capacity to understand the process, and sufficient maturity and emotional intelligence to respond appropriately

It is important not to penalise a child because of factors beyond their control – for example a [child looked-after](#) or child in the care of one parent who works or has younger children may not have the same level of support in engaging as other children. You should always take into account that an ultimate outcome of taking the child back to court could be a custodial sentence. The breach report should always give an account of any positive engagement and progress against goals and factors which could support further

engagement. It should indicate that you are prepared to continue working with the child and to support them and suggest any alterations which would increase engagement.

The YJS's levels of breach action should be tracked in line with [standards for children in the youth justice system](#) and reported to its management board as part of regular performance management data. The board should have oversight of actions to avoid high levels of breach. It should also monitor the demographics to ensure that breach action is not disproportionately taken against children from Black, Asian and Mixed ethnicities, those from Gypsy, Roma and Traveller backgrounds and children that are vulnerable or looked after. Any decision to take breach action should be accompanied by a review led by an independent manager. This should consider any:

- gaps identified in services which have led to a failure to engage this child
- learning that can be taken for the development of individual staff or the service
- alterations that can be made for this child to engage them better

### **How to manage staff working with children in YJSs**

Children should be allocated a worker within two working days of the order being made. This is so that induction arrangements are put in place and their engagement with the youth justice service (YJS) and intervention planning can begin as quickly as possible.

Managers are responsible for ensuring the quality of the intervention plan and its implementation for each child.

There should be quality assurance processes in place which ensure that assessments and intervention plans are checked, are of sufficient quality and work is consistently undertaken to a good standard and in an appropriate way. Staff should receive induction and refresher training to ensure their practice is consistent with organisational expectations, policies and procedures and is up to date in terms of practice developments and initiatives. There should be a workforce development plan in place.

Case managers and other staff delivering elements of community orders should be regularly supervised and provided with a reflective space to discuss their practice and concerns. In particular, staff should have access to support when working with particularly distressing cases, whether through external support, line management, team discussion or other means. YJSs should operate using a learning culture, and support staff in a non-blaming manner.

The delivery of effective interventions relies on staff being committed, skilled and trained in appropriate methods of delivery and techniques to engage and develop relationships with children. YJS workers should have access to the resources to deliver the requirements of court orders. This includes access to specialist workers and services and agreed pathways for referrals to services so that children's needs can be promptly dealt with. If there are difficulties in obtaining access to services, the management board should be made aware. There should also be a range of appropriate materials and resources available to deliver work which meets the needs of individual children. Staff should be encouraged to develop positive relationships with children and to adopt innovative and good practice.

YJSs should understand the profile of the children they are working with; what their needs are; and the approaches required to address them. The cohort of children they are working should be periodically analysed to identify if there are common needs or concerns and to ensure that work is meeting those needs and helping to support desistance. This information should be shared with the management board and be reported in the youth justice plan.

The YJB has various toolkits which can help to monitor and track outcomes for children, in respect of [disproportionality](#). Please also see [ways to improve quality](#).

### **How to respond to particular types of offending**

Youth justice services should be able to offer a range of work and have a portfolio of different resources available, so that bespoke approaches can be taken with each child. This will enable them to address the child's needs and ensure that harm (to the child or others) is reduced and their practical and emotional problems are addressed.

For example, responses to acquisitive crime such as shoplifting and theft may have a restorative element and interventions associated with motoring offences are likely to focus on the dangers and consequences of illegal driving and endorsements and disqualification.

Some offending behaviour may be connected to alcohol and substance misuse. Work to address this may focus on providing advice about alcohol and cannabis use and reducing habitual use. Social media is predominant in everyday life and may be a catalyst or contributory factor to offending.

These resources provide further information: [Social media briefings](#) [NSPCC: Online Safety for Children - Tips and Guides](#).

Work should start with understanding why a child has committed a particular form of offence (but care taken to not define them by it) and the motivations behind it e.g. carrying weapons may be seen by the child as legitimate due to fear of victimisation and for self-protection. Some activities may not be viewed as criminal such as public order, or sexting offences. Some children may be drawn into harmful activity through the internet and social media or exploitation.

Consideration needs to be given as to whether the child has the cognitive ability, emotional capacity or communication and social skills to express themselves and learn from their experiences. You should also consider what process of learning might suit them best and what techniques might support this e.g. using techniques associated with Playfulness, Acceptance, Curiosity and Empathy. The following resource [explains this technique](#) and how it might be used when working with children in the justice system.

### **How to respond to violent offences**

Being subjected to adverse childhood experiences and trauma can have a serious impact on natural brain development. A [report](#) by Manchester Metropolitan University and Manchester Youth Justice suggests that understanding what the child has gone through in the past may help to understand violent impulses. This is because of the impact on the child's:

- emotional and mental well-being
- thought processes
- ability to manage emotions and self-regulation
- feelings on what they need to do to stay safe in what is perceived to be a threatening world

The follow-up of the Edinburgh Study [Causes and Impacts of Offending and Criminal Justice Pathways](#) is also informative. Trauma-informed practice is based on the idea that the child's offending is an accrual of their adverse experiences, whereby helping them to disclose and understand these experiences helps them to recover. This requires the development of safe, respectful and committed relationships. Work should focus on helping children to lead safe lives and recognise that those involved in certain types of crime may also be victims and have been subject to exploitation (including through social media).

The YJB has developed the following [toolkit](#) to monitor and address serious violence.

### **The Serious Violence Duty**

The [Serious Violence Duty](#) was introduced in the Policing, Crime Sentencing and Courts Act 2022 to prevent and tackle serious violence. The duty will be placed on local authorities, youth justice services (YJSs), probation services, fire and rescue services and health authorities to form a partnership (core duty holders). Educational institutions and prisons/youth custodial establishments have a duty to co-operate with core duty holders where necessary.

The role of the partnership is to establish the local 'problem profile', to undertake a strategic needs assessment and to publish a strategy setting out how serious violence will be addressed locally, the partnership will work together and the collective actions will be taken. This includes:

- engagement plans with Police and Crime Commissioners
- the Mayor's Office for Policing and Crime and the Common Council of the City of London
- Violence Reduction Units
- voluntary and community organisations and children
- identified funding streams or resources

The YJS should nominate a representative from the service who will be a member of the partnership. For further information see the [guidance for responsible authorities](#)

The duty is intended to complement the work of Violence Reduction Units which operate in 18 areas across England and Wales. For further information see the [Violence Reduction Unit interim guidance](#).

### **How to respond to harmful sexual behaviour**

Depending on the offence committed, initial consideration should be given to whether the child is dealt with through the criminal justice system or child welfare system. Protocols exist in England and in Wales which can assist with this (see how to [safeguard children in the justice system](#)). Consideration should always be given as to whether children who commit offences that relate to harmful sexual behaviour are diverted from the system (where appropriate) and what the local mechanisms are for making those decisions, which would include consideration of the seriousness of the offence, offence type, age of the child and age of the victim.

Harmful sexual behaviour can take many forms, including inappropriate behaviour, sexual assaults and possessing and making indecent images. Children who have committed sexual offences may initially deny their involvement (this does not necessarily mean a risk of repeating/continuing the behaviour). They could also be unaware that their actions (particularly on-line and through social media) were unlawful or have poor/immature sexual knowledge.

Children who have committed harmful sexual behaviour may have experienced sexual, physical and emotional abuse themselves or have difficulties in cognitive functioning. They may have difficulty understanding consent and coercion because of learning difficulties. They may also have low self-esteem compounded by some of these factors. Being identified as a child who has displayed/engaged in harmful sexual behaviour may also lead to rejection (by family and peers) and anxiety about being identified as a perpetrator. Children should not be labelled as abusers or sex offenders; their actions should be seen within the context of their personal development.

The needs of children who exhibit sexually harmful behaviour will be identified by AssetPlus, however further specialist assessments may be required to gauge the child's needs (e.g. what the child has been

through and what their current situation is), understand their sexualised behaviour; and to help to plan appropriate interventions. The [AIM Project](#) has developed useful resources including the AIM3 assessment model, which provides a structured approach to gathering and analysing information about the child. AIM also has a framework for assessing children with learning disabilities.

For more information on harmful sexual behaviours:

[Greater Manchester Safeguarding: harmful sexual behaviours presented by children and young people](#) [NICE: harmful sexual behaviour among children and young people](#)

Children who have committed sexual offences should be assessed and managed through multi-agency arrangements and a co-ordinated approach with children's services, child protection and local safeguarding arrangements. Children who sexually harm others may be both perpetrators of abuse and also victims of abuse. A holistic approach should be taken to planning interventions with consideration given to the child's (changing) developmental status, its effect on their understanding of their behaviour and how this fits in the wider context within which they are living (involving parents and carers where appropriate). It should also consider any cultural influences/perspectives.

Children who have committed harmful sexual acts may require specialist support and services. Advice should be sought from health experts the youth justice service has access to determine what this should look like. The [Good Lives Model](#) was specifically developed as a strengths-based approach to addressing harmful sexual behaviour.

Children who commit certain sexual offences may also be required to register their name, date of birth and address with the police under the [Sexual Offences Act 2003](#) and to notify them of any temporary or permanent change of address within 14 days or any plans to leave the UK for any period of more than eight days, at least 24 hours beforehand. Schedule 3 of the Act sets out the specified offences. In certain circumstances, the court may direct someone with parental responsibility to register on the child's behalf until they reach 18 years of age. See also [How to manage multi-agency public protection arrangements](#).

### **How to handle offences of terrorism, extremism and radicalisation**

Practice advice and guidance for youth justice services on how to support the management of children at risk of engaging with, or involved in, terrorist-related activity is available on the Youth Justice Resource Hub.

To access this guidance you must work in a youth justice service in England and Wales, and log-in via the [youth justice practitioner portal](#).

### **How to understand the profile of children in your area**

Youth justice services (YJSs) should understand:

- the profile of the children who are using the service
- their needs
- the interventions and approaches required to address them

You should periodically analyse the cohort of children you are working with to identify if there are common needs or concerns and to ensure that interventions are meeting those needs and supporting desistance. This information should be reported to the management board and be included in the youth justice plan.

Profiling should, as a minimum, examine offence type, disposals, ethnicity and gender. However, there may be other indicators of disproportionality locally which require investigation and understanding.

YJSs have an obligation under the [Serious Violence Duty](#) to provide information to inform a local needs assessment to understand the nature and extent of serious violence in their locality. This should form part of the local profiling of children who are at risk of or entering the youth justice system.

Local profiling should always consider disparity, disproportionality and the over representation of any particular groups of children on caseloads, to ensure the reasons for it are thoroughly explored, to identify any particular trends and to ensure specific needs are always considered and provided for. This should be reflected in strategic planning and operational delivery.

The YJB has various toolkits which can help to monitor and track outcomes for children, in respect of [disproportionality](#). Please also see [ways to improve quality](#).

### **How to manage the likelihood of harm through multi agency arrangements**

There may be a significant level of concern about a particular child's safety and well-being and some children will be identified as likely to cause serious harm to themselves or others. Youth justice services (YJSs) should have arrangements in place to ensure that the child is kept under regular review e.g. through (risk and safeguarding) panel meetings. These meetings are likely to be regular, multi-disciplinary, involve senior managers within the YJS and appropriate representatives from children's services, CAMHS, education, the police etc.

Where there are ongoing and significant public protection and safety and wellbeing concerns this enables the responsibility to be shared and mutually agreed plans to be put in place for the child which will reduce the risks to themselves and others.

### **How to safeguard children in the justice system**

Youth justice services (YJSs) should have a designated safeguarding lead and all staff should understand their role in relation to safeguarding. The YJS manager should be a member of the local safeguarding board and provide it with locally agreed information about children for whom there are high/very high safeguarding concerns. This might include children for whom multi-agency referral forms have been raised (child protection and children in need (of care and support), children in custody and children subject to serious incidents, serious case reviews and child practice reviews.

National and local safeguarding procedures should be followed for [England](#) and [Wales](#). This includes participating in the development of contextual safeguarding processes.

There must be effective arrangements in place to assess needs through quality assurance processes and a clear understanding of the referral process to children's services and multi-agency safeguarding hubs where there are high/very high safeguarding concerns. There should be good partnership arrangements with children's services, education, health and schools. YJS workers should have a good understanding of the needs of children for whom there may be specific safety and well-being concerns, to be able to identify these children and take appropriate action:

- children who go missing
- child criminal exploitation and child sexual exploitation – this [useful summary of resources](#) contains more information

- county lines – this [practice guidance](#) contains further information as does the [National Referral Mechanism](#)
- children at risk of being trafficked
- children at risk of being drawn into terrorist activity who are vulnerable to radicalisation and extremism
- where appropriate work with [Channel and Prevent](#), practice advice is also available on the Youth Justice Resource Hub's [Practitioner Portal](#)

Consideration should also be given to disproportionality in safeguarding arrangements and whether there is sufficient alignment with child protection and care plans. Also, whether there is clarity about what professionals are doing to keep children safe and where there are significant concerns, that they are discussed in detail at high-risk panel meetings and other appropriate local fora.

The following resources may be of interest:

[Safeguarding adolescents: a practice guide](#) [Child Victims of Modern Slavery Training Programme](#)

Safeguarding arrangements should also consider children remanded or sentenced in youth detention accommodation. The following [practice guide](#) also considers children in police custody.

YJSs should consider undertaking periodic audits of children subject to safeguarding arrangements, for example:

- the number of children at risk of county lines and involved in county lines
- children subject to various forms of exploitation
- children for whom Multi Agency Referral Forms have been made

This is to be able to identify safeguarding trends and ensure that responses to children are audited and their needs are understood.

### **How to manage multi-agency public protection arrangements (MAPPAs)**

Children who meet the following criteria must be referred to the multi-agency public protection arrangements (MAPPAs) for the area:

#### **Category 1**

Registered under the Sexual Offences Act 2003.

#### **Category 2**

Have committed violent offences or other sexual offences (not subject to notification requirements under the Sexual Offences Act 2003) required to and have served 12 months or more in youth detention accommodation.

#### **Category 3**

Other children who may present a risk of serious harm to the public and for whom a multi-agency approach and management at level 2 or 3 is required.

As lead agency for children, the youth justice service (YJS) should identify and undertake a comprehensive risk assessment. It should then make referrals to MAPPAs and identify the appropriate management level. MAPPAs agencies have a duty to view the needs of the child and the YJS and children's services must attend when a child under the age of 18 is discussed:

### **Level 1**

Risks can be managed by the YJS without the need for multi-agency meetings.

### **Level 2**

A multi-agency meeting would add value to the YJS plans and one or more of the following apply: there is a high or very high risk of serious harm; the risk is lower but requires the active involvement and co-ordination of agencies to manage the presenting risks of serious harm; the child has been previously managed at level 3, but no longer requires this level of management.

The child will be discussed at a level 2 multi-agency public protection meeting, and a risk management plan agreed. Whilst the YJS case manager should attend as they are likely to have the most detailed knowledge of the child, a more senior YJS manager should be present at all meetings where a child is being discussed, to ensure the additional factors are properly and fully addressed.

### **Level 3**

The criteria for level two are met, but the serious nature of the case or its high-profile nature require senior representation from the YJS. It will be discussed at a level 3 multi-agency public protection meeting, and a risk management plan agreed. Whilst the YJS case manager should attend as they are likely to have the most detailed knowledge of the child, the YJS manager should be present due to the serious nature of the case.

The [MAPPAs guidance](#) provides more detailed information about the role of the YJS and the MAPPAs process.

### **Integrated Offender Management**

Integrated Offender Management (IOM) arrangements are to manage children whose offending is most persistent and prolific. Children are identified through the AssetPlus assessment, and local arrangements within the youth justice service (YJS) such as risk panel meetings. IOM brings partner agencies together to share resources for managing these cases. The Home Office's [Integrated offender management \(IOM\) guidance](#) contains more information. This should be relatively rare for children, as YJSs are already multi-agency arrangements. Children who transfer from the YJS to probation service supervision may be managed through IOM.

### **How to manage oversight of safeguarding and public protection**

Managers provide oversight of public protection and safeguarding by ensuring that:

- robust quality assurance and risk management processes are in place
- multi-agency meetings regularly take place to discuss children where there are significant concerns about safety and well-being and/or public protection (including decisions to issue warnings or to take breach action)

The youth justice service should be represented at a strategic level at the following meetings:

- multi-agency safeguarding arrangements
- MAPPAs strategic management board
- [Multi-Agency Risk Assessment Conference \(MARAC\)](#) for domestic abuse and violence
- the Safer Communities board
- Integrated Offender Management

- other local meetings concerned with missing, exploited and trafficked children
- meetings concerned with community safety and public protection to share intelligence with partner agencies and to safeguard children and protect the public

Managers should ensure that staff have the training, resources and networks to address the following:

- child criminal exploitation
- child trafficking
- organised gangs
- county lines
- use of knives and serious drug related offences

This is to safeguard children and protect the public. They should also monitor and audit safeguarding, child protection, MAPPA and MARAC referrals, serious incidents and any involvement in child safeguarding practice reviews and share this information with the management board. The learning from this involvement should inform policy and practice development. It is good practice to consider holding multi-agency learning reviews when serious incidents arise and to share the findings with the management board and local children's safeguarding board.

### **Weapons detection systems**

Some youth justice services, schools and other public buildings use detection systems to identify whether individuals coming into the building are carrying a weapon. These include metal detecting systems such as walk-through knife arches, or wands which are waved over visitors. They are used to check for concealed weapons. If there is a sound, this may indicate that the individual may have a weapon and they may be turned away from the premises.

Weapons detection systems only detect metal weapons and may be a semi-permanent feature of a public building in which you see a child; or used on a temporary or ad hoc basis, for example at the start of group sessions. If you are meeting children on premises which carry out these checks, you should advise them of the security arrangements and be ready to address any anxiety this may cause for children, parents or carers. This might involve explaining that the system is there to keep them as well as others safe, and that services have a duty of care for children and staff on their premises.

It is important that children and their carers feel, as far as possible, that this is a safe and appropriate meeting place. It would be good practice to engage children in the decision to install a system, subsequent communications about it, the risk of stigma and the impact on their identity and sense of safety.

### **When weapons detection systems should be used**

It is the decision of each local area as to whether to use any weapons detection system; and if so, where and how. This will be informed by local assessment of the level of risk of weapon related crime, and the assessment of the impact that having such systems may have on perceptions of safety. Local areas ensure that:

- someone monitors the effectiveness of the system
- there is a process to take action if the system indicates a possible concealed weapon
- there is a clear consequence for either a refusal to use the system; or an incidence of a possible weapon possession

Weapons detection systems are intended to be a preventative measure to keep people safe. If a child is found to be in possession of a weapon, this should be regarded as a safeguarding concern. You will need to work with children's services to assess the child's situation in terms of why they felt unsafe, why they felt a need to carry a weapon and what action will be taken as a result.

If your service is considering using weapons detection systems, you may wish to look at the [Youth Justice Resource Hub](#), which includes the experiences of services who have used a range of systems and their assessment of the positives and negatives of these.

## Section 2 – How to assess young people in the Youth Justice System

Information on the types of assessment, how to undertake one and what you should consider. It includes information on undertaking assessments to inform intervention plans, reviewing, AssetPlus as well as some specialist assessments.

### Conducting an assessment

Good quality assessment is the foundation of effective youth justice practice. It is vital to:

- identify and meet the needs of children
- make a plan tailored to the needs and circumstances of each child
- identify factors to support positive outcomes for the child such as inclusion in education and importantly desistance from offending
- identify safety and well-being concerns
- identify the child's strengths, interests, activities and support networks which can help them to develop a positive mental picture of themselves and their place in society

Assessment is a process of information gathering from the child, their parents/carers and other professionals who have supported them. It is undertaken before any work commences with the child and is the start of a dynamic and cyclical process. This process leads to the planning of work, supervision of the child and a review of progress.

Assessments also inform the preparation of pre-sentence reports that inform sentencing decisions and they advise Referral Order Panels on the content of contracts.

Assessment is continuous, as you get to know the child and their parents/carers you will continue to gather new information. The child and their parents/carers should play an active role, they will have important information to offer that is both verbal and non-verbal. You will also want to test your understanding of their circumstances with them for accuracy. Assessment should provide a comprehensive picture of the child within the context of their environment, situation and circumstances to understand what support they require to move towards a positive self-image. Home visits are an integral part of this, and at least one should be undertaken for each assessment.

Assessment helps you to understand the child's vulnerabilities and needs, and to identify any barriers to positive outcomes. To do this you should:

- ensure the child and their parents and carers understand the purpose of the assessment and how it will be used
- engage the child and their parents or carers to discuss and identify what is important to them, their needs, future goals and aspirations
- review information from existing documentation e.g. previous assessments and pre-sentence reports
- obtain relevant information from other sources such as children's services and health and education professionals to inform the assessment; ensuring that these are evidence based
- undertake at least one home visit and assess the environment in which the child lives and its potential impact upon them

- consider whether the child is the victim of exploitation of any kind
- take into account diversity, including sex, race or other life and cultural experiences
- recognise that a child's diversity and any experiences of discrimination will inform your understanding of their reality and in turn how you engage with them
- consider the child's age, maturity and any particular speech, language, health or learning needs they have, to understand what is appropriate for them
- consider whether the child has experienced adverse childhood experiences in their early years and upbringing which may have resulted in trauma, may have had an impact on their well-being and is likely to influence their behaviour
- find out about the child's strengths, interests and factors which can support positive outcomes
- identify any harm the child may pose to themselves or others
- ensure that assessment is an on-going dynamic process and is kept up to date particularly if circumstances change or new information becomes available

### **Unconscious bias and discrimination**

It is important to be aware that when conducting assessments, your judgement may be affected by bias. This is natural and will result from your own experience, feelings, perceptions and the nature of the offence. However, it can affect how you make decisions and it is important that you reflect upon your thinking and examine any possible bias. Factors to be aware of are:

- failure to adequately explore cultural issues and the needs of children from different backgrounds
- focusing too much on a particular aspect of the assessment to the detriment of others

Care should also be taken to ensure assessments are free from cultural myths, stereotypes and the adultification of certain groups - in the sense that children from some communities are treated as older and more culpable than others at a similar stage of development. Assessments should also be free from discriminatory language and other factors which could negatively impact on children.

Assessment must go beyond merely describing the facts. The purpose is to help to improve your knowledge of the child's situation and the factors contributing to their behaviour, including experience of trauma and exploitation and what would assist them to lead a positive lifestyle. You should analyse the information obtained and ensure the conclusions you draw are linked to the evidence you have gathered. This enables you to present defensible conclusions in reports for courts or panels and ensure the child has a greater likelihood of achieving positive outcomes, keeping both the child and the public safe. Assessment informs intervention planning and can also be used for providing information for external purposes such as for multi-agency public protection arrangements (MAPPA).

You should allow sufficient time to ensure the assessment is good quality and comprehensive. It is important to remember that assessment is a process which leads to a plan of intervention, not an end in itself. Assessment is an on-going process, every conversation or interaction you have with a child will increase your knowledge and understanding of them.

The [Youth Justice Resource Hub](#) contains some additional tools which can assist you with assessment (including assessing through a trauma-informed lens).

## AssetPlus

AssetPlus is the Youth Justice Board's (YJB) end-to-end assessment and planning framework. It aims to provide a single record for each child involved in the youth justice system, whether in the community or custody.

AssetPlus is the required assessment tool to inform court and Referral Order reports and should be used for children under the statutory supervision of the youth justice service. It may be used for assessing children for out-of-court disposals but is not mandatory for this purpose. An out-of-court disposals module for AssetPlus will be publicised and made mandatory in 2024. You should be aware of what assessment tools are used locally if AssetPlus is not used for out-of-court disposals.

[The AssetPlus framework](#) contains several sections which can guide you to gather appropriate information and plan interventions with children. It has several standardised self-assessment tools in English and Welsh. Other assessments (whether specialist) or alternatives to AssetPlus can and should be attached to the framework.

For further information:

[AssetPlus: assessment and planning in the youth justice system](#) on the structure of AssetPlus. [The AssetPlus Model Document](#) for more on each of the different sections of the AssetPlus framework.

Examples of assessment practices in other areas, including identifying trauma in the assessment process are on the [Youth Justice Resource Hub](#)

### Information from other sources that informs your assessment

Children and their families are the primary source of information for your assessment, but you should also contact statutory agencies such as children's services, health, education, the police and other (third sector) organisations who may have had contact with the child and their family. This is to ensure that the information is as comprehensive as possible, the perspectives of different agencies are incorporated and the assessment is accurate and holistic.

Enquiries with children's services should establish whether there has been current or previous contact and the nature of that contact, for example as a [child looked-after](#), as a child in need (of care and support) or if there are child protection concerns. This will identify whether the child has a current social worker, the level of support they are receiving from them and any factors relating to the safeguarding and welfare of the child which needs to be considered when planning activity.

If the child is looked after, you should be familiar with the content of their care plan and liaise regularly with their social worker to ensure that assessments, plans and any relevant information regarding the child's situation and circumstances are shared. This is to ensure that:

- the youth justice service's assessment remains up to date
- that work undertaken with the child is complementary
- the roles and contribution of each agency is understood by the child

If you are assessing a child and you have concerns about their safety and well-being you should be aware of the referral process to children's services and be familiar with local processes for following up on referrals. This includes escalating concerns in your own organisation if they are not being addressed.

If necessary, the court has the power to ask local authorities to carry out investigations into child defendants under Children and Young Persons Act 1969 ([legislation.gov.uk](http://legislation.gov.uk)). This is rarely used, because children's needs are assessed as a core part of the pre-sentence report. However, if you experience any difficulty in obtaining information from children's services, which cannot be resolved through local escalation, the court can use this power to ensure information is presented.

### **How to use the National Referral Mechanism**

The National Referral Mechanism (NRM) is the framework for identifying and referring potential victims of modern slavery and ensuring they receive the appropriate support. Modern slavery is a complex crime and may involve multiple forms of exploitation. This includes trafficking and forced or compulsory labour.

Many children in the justice system are the victims of criminal exploitation. Where there is a concern that this may be the case, processes arising from the Modern Slavery Act 2015 can be used to assess and support children who are victims of trafficking and exploitation. If you are concerned about a risk of criminal exploitation, you should make a referral to the [NRM](#), or devolved local equivalents, without delay and giving as much relevant information as possible. The agency making the referral is known as the First Responder.

Support for child victims is provided through the local authority. First Responders should ensure the local authority children's services are contacted immediately. You should work with partners to obtain all relevant information to enable the NRM to take a decision about whether a child is a victim of trafficking or exploitation. If found to be a victim, the child is entitled to a period of recovery and additional help and support. It may also affect whether and how the child is dealt with in criminal proceedings.

The First Responder should always make a referral to the Independent Child Trafficking Guardian (ICTG) service if available in the area. Independent Child Trafficking Guardians in England and Wales are an independent source of advice for trafficked or exploited children. They can speak up on their behalf and act in the best interests of the child.

Read the [Interim Guidance for Independent Child Trafficking](#) for more information on where the service is currently available and what to look for if you suspect a child has been trafficked and/or exploited.

[Statutory guidance on the Modern Slavery Act 2015 for England and Wales](#) is available online.

### **How to involve children in their assessment**

The assessment process is unlikely to be a neutral event for a child. This is particularly true for those with little or no experience of the justice system and for those who have experienced adverse childhood experiences and trauma. The telling (and re-telling) of their stories to individuals they do not know may be difficult and painful. The youth justice service may also be one of a range of agencies which is assessing their needs.

The assessment should not be conducted according to a standard interview schedule. The way information is gathered is likely to be determined by:

- the length of time you have known the child
- any previous involvement with the justice system
- their emotional well-being
- problems with speech, language and communication and learning difficulties and disabilities

Services should:

- fully engage children and, where appropriate, their parents and carers in the assessment process
- encourage them to participate and tell their stories in their own way
- think about what interventions would assist and be meaningful to them

Sensitivity and skill is needed when the child and parent/carers are present together. You should always speak to them separately. They need to understand:

- what the purpose of the assessment is
- how it will be undertaken and how the information obtained will be used
- the circumstances under which any information might be shared

Particular attention should be given to:

- how questions are asked about sensitive issues such as family difficulties and adverse experiences
- distress or discomfort
- areas the child is reluctant to talk about
- what you can do to reduce anxiety

The information gathering section of AssetPlus includes a section in which children and their parents/carers can undertake a self-assessment (in English or Welsh). This provides the opportunity for them to state their views about various aspects of their life (which can be compared over time). Self-assessment can play an important part in understanding the child's experiences, identifying what is important to them and demonstrating their views are being taken into account.

The option of completing a self-assessment tool should be provided to all children and their parents/carers. Consideration should also be given as to whether they need any assistance to do this and how this could be provided.

The best way to conduct a self-assessment is for it to be fully considered in line with the child's needs.

Self-assessment covers the following topics:

- bail
- custody
- family, home and relationships
- smoking, drinking and drugs
- health and how I feel
- friends
- school, college and work
- offending (statutory only)
- my future
- working with the youth justice service (YJS)
- working with probation services
- review
- custody review
- end of intervention

The self-assessment section of AssetPlus should be re-visited at regular intervals to ensure the views of children and parents/carers are thoroughly considered throughout their period of involvement with the YJS (not just at the start or end), to encourage their active involvement and contribution to the development of their assessments and intervention plans.

How best to conduct a self-assessment should be fully considered in line with the child's needs. Best practice would suggest that this should be discussed with them and their parents/carers beforehand. There is a presumption that self-assessments should be undertaken face to face, however in circumstances where professional judgement considers that a face to face self-assessment does not best support the child's needs the reasons should be fully recorded and a managerial discussion undertaken.

Following assessment, an intervention plan is required for all children receiving statutory supervision from a youth justice service. The plan is produced by the child's case manager. It will identify all actions required to support desistance from offending and any other actions which can support the child to lead a positive lifestyle. Read guidance on [how to develop an intervention plan](#) and [how to complete the Pathways and Planning Section of AssetPlus](#).

### **How to decide the frequency of contacts arranged with children**

The court determines the length of time for the child's order and, where relevant, sets its requirements. The details of how this is delivered in practice should then be agreed with the what the child, their parents or carers and key professionals (and in the case of Referral Orders, with community panel members).

You should begin by considering how best to engage the child. Your aim is to support them in the journey to their future self. The content of the order should therefore be framed around the outcome, rather than setting the amount of work that the child needs to do.

The amount of contact required should be proportionate to the child's needs. It should also be balanced with the requirement to ensure the safety and well-being of the child and ensure public protection. Consideration also needs to be given to putting a credible proposal to the court whilst at the same time ensuring that the response to the child remains commensurate and proportionate to the offence(s) they have committed.

The following areas should be considered when determining the frequency of contact:

1. What is the duration and nature of the order? For example, the supervisory requirements of a short referral order are likely to be very different to that of intensive supervision and surveillance (which is an alternative to custody).
2. Has the level of intervention required on an individual basis been assessed and what will work best for a given child rather than taking a standard approach?
3. What is the minimum and maximum levels of supervision required to be able to effectively engage and work with the child?
4. Have you explained what is statutory contact and why or where an intervention is voluntary? For example, mental health or substance appointments are therapeutic in nature and likely to be impeded by being made mandatory.
5. Have you retained flexibility of approach? For example, levels of supervision and support can be increased (on a voluntary basis if the child is in crisis and needs more support) or statutory contacts i.e. the appointments set as part of an order or condition, can be decreased where good progress is being made and the need for more frequent contact with the youth justice service (YJS) is diminishing. Management oversight will be necessary where there are significant public protection concerns e.g.

where the child is under review through MAPPA or other similar processes, to ensure defensible decision-making.

6. Have you considered any requirements attached to an order (or activities included in a referral order contract) in terms of the cumulative expectations placed on the child and what is likely to be effective in supporting and engaging them to minimise the likelihood of harm occurring? The plan needs to be realistic for the child to manage.
7. Have you considered the sequencing and nature of interventions and how that might influence contact frequency? For example, some activities may be carried out more frequently at the start of an order and then tail off.
8. Did you develop a plan with the child so they can clearly see what their engagement with the YJS looks like, the benefits they can hope to achieve, that it is time-limited and the potential for early revocation is there if they make good progress?

An example plan might be: “Maximum levels of statutory appointments twice a week during the first three months of an order (or six months for orders longer than a year); with that frequency reducing as the child moves forward.” You should note that you have the professional discretion at any stage to vary the frequency of statutory appointments that includes fewer appointments, for example if the child is overwhelmed by expectations and struggling.

It is important that the criminal justice system is not used to address safeguarding, welfare or support needs. You may be identifying and addressing those needs during the course of your intervention with a child, but they should not form part of the mandatory intervention on the court order. Making these interventions mandatory would penalise children for having support needs. It is always preferable for the child to engage with universal or specifically targeted support for these needs, which will be available beyond the conclusion of their involvement with youth justice agencies. This is so that support can be provided which is not contingent on the justice system; and responds to them as a child with welfare needs.

You may wish to refer to [Youth offending inspection - Domain two - Case assessment rules and guidance](#) which sets out the expectations from HMI Probation.

### **Describe the frequency of proposed contacts to the court and others**

In forming proposals, for example in a pre-sentence report, you should emphasise that the frequency of statutory contacts will be focussed on the desired outcome of moving the child to a positive self-identity and addressing barriers to their development. This might include engaging more with education or training, activities which build a pro-social friendship group, or family support. You may refer to the suggested maximum statutory contact frequencies described above. You may also inform the court that welfare, vulnerability and safeguarding needs may be separately addressed through services which will not form part of the statutory court order and that you will advocate for these.

In making recommendations to a Referral Order Panel, you may wish to suggest the level of statutory contact likely to be needed to move the child to a positive self-identity. You may also emphasise the distinction between statutory contacts, and referrals for support to address safeguarding and welfare needs.

### **Assess risk of harm**

The behaviour of children in the justice system can cause harm or serious harm to others and to themselves. Risk of the child causing any harm is consequently assessed to consider what measures are required to protect the public and indeed the child.

The YJB defines serious harm as ‘death or serious personal injury whether physical or psychological’ and risk of serious harm is the likelihood and imminence of this happening, and the impact if it did.

Vulnerability or public protection concerns can arise as a result of:

- the behaviour of others e.g. through adverse childhood experiences, intimidation and exploitation
- events such as transitions or changes in living arrangements
- The child’s own behaviour e.g. self-harm, risk taking, substance misuse

In assessing the degree of concern presented you should ensure:

- it is individualised and contextualised
- you identify who may be at risk and in what circumstances
- you assess whether any risk of harm to the child or others is imminent or not
- what controls are in place to protect the child from harming others or themselves
- what positive interventions are in place to promote the child’s safety and wellbeing, such as counselling, educational support, or services provided by external agencies to address mental or physical ill-health or substance misuse

It is also important to recognise that risks and their nature can change over time. This should continue to be explored in assessment so that plans remain current and relevant. Within the assessment the ‘explanations and conclusions’ section of AssetPlus gives an indicative rating of the likelihood of harmful behaviour being caused by the child. You will use professional judgement to agree with or amend this as appropriate, ensuring that this judgement is evidenced, and seek to identify and eliminate elements of unconscious bias. The assessed level of risk of harm to others is derived from the assessment, taking into account:

- the seriousness of the offence
- the circumstances around it
- the child’s attitude towards it
- past offending history
- any indication the action may or may not be repeated

The assessment should also consider whether there are any factors which lessen the likelihood of this occurring such as positive changes in circumstances since the offence was committed, motivation to desist and other protective factors.

**Risk of harm levels are defined as follows:**

**Low risk**

When there is no evidence to indicate any likelihood of future harmful behaviour.

**Medium risk**

When some risk is identified but the child is unlikely to cause serious harm unless circumstances change. Relevant issues can be addressed as part of the normal supervision process. For example, a change in circumstances, failure to take medication, loss of accommodation, relationship breakdown, and drug or alcohol misuse.

### **High risk**

When the potential event could happen at any time and the impact would be serious. Action should be taken quickly and the child may need additional support.

### **Very high risk**

When the child is likely to commit the behaviour in question as soon as the opportunity arises, and the impact would be serious. Immediate multi-agency action is likely to be required.

You should consider the impact of assessing children as 'risky' and what it might mean to them in terms of labelling and self-identity (a status symbol or something they consider to be detrimental/damaging). Consideration should be given to how you engage with children and their parents/carers on matters relating to levels of risk and harm, what it means and whether they would assess themselves in the same way.

You may wish to refer to [Keeping other people safe in case management](#) produced by HMI Probation.

### **When to review the assessment**

You should complete a new AssetPlus assessment at the start of every new order and for every new pre-sentence report. It should then be reviewed whenever there is a significant change in the child's circumstances or as more becomes known about them. Reviews should take into account their response to interventions and engagement with the youth justice service. They should also consider whether any changes need to be made to the intervention plan because of progress made or difficulties in engaging the child with any elements of it.

As part of the review process you should ask the child and their parents/carers whether they would like to complete a further self-assessment and utilise the information provided to assess how the order is progressing. It is important that the child can recognise that the work they are doing benefits them.

The review process should consider what positive progress has been made to inform decisions about early revocation. This should be considered as a standard part of the review process – see [early revocation](#) for more detail.

### **Recording on the case management information system**

Once completed, you must record the AssetPlus assessment on your case management information system. Assessments should be jointly produced with the child and shared for transparency.

Personal information must be recorded and processed in line with the General Data Protection Regulations 2018 and Data Protection Act 2018.

### **Quality assuring assessments and plans**

You may wish to refer to the [ways to improve quality](#) section of this guidance for more detail.

[Quality Assurance tools](#) are available on the Youth Justice Resource Hub. They will help you to scrutinise and audit assessments and plans completed using the AssetPlus framework. Quality assurance aims to ensure assessments and plans:

- are high quality
- are balanced and unbiased

- contain a link between the evidence gathered and the interventions planned;
- have interventions that promote potential and desistance

Quality assurance processes can support training and development. Providing feedback on the timeliness and quality of assessments and plans will identify how they can be improved and ensure a consistent approach across the youth justice service.

The quality assurance process should also ensure that assessments are unbiased and do not discriminate against any groups of children in any way which might lead to unfavourable outcomes. You are advised to use the YJB's [ethnic disproportionality toolkit](#) to monitor how children from different ethnic groups are represented in the youth justice system.

The YJB's [standards for children in the youth justice system 2019](#) sets strategic and operational standards for youth justice service (YJS) management boards and practitioners. They require that services meet specific standards in relation to the quality of their assessments and plans. YJSs are periodically required to self-assess against the standards to identify effective practice and to develop action plans if improvements need to be made.

Information on the quality and outcomes of assessments and plans should be regularly shared with the management board.

### **Consideration of multi agency public protection arrangements (MAPPA)**

When assessing a child, you need to consider whether they meet the following MAPPA eligibility criteria:

- category 1: sex offenders
- category 2: violent offenders receiving a 12 month or over custodial sentence
- category 3: other dangerous offenders where there is an agreed risk of serious harm needing multi-agency involvement

For further details see [How to manage multi-agency public protection arrangements](#).

## Section 3– How to use reports

Information on the types of report, including pre-sentence reports, how they are used and what they should contain. It also includes information on how to manage court orders and specific requirements including electronic monitoring, unpaid work and intensive supervision and support.

### **The sentences available to court when sentencing a child aged 10 to 17 years of age**

The following sentences are available for the courts in England and Wales to use with children:

- absolute discharge
- conditional discharge
- fine
- community court orders
- custodial sentences

The following community court orders and custodial sentences will always require a court report:

- Referral Order
- Youth Rehabilitation Order
- Detention and Training Order
- Sentencing for Serious Offences (section 250 sentence)
- Special Sentence of Detention for Terrorist Offenders of Particular Concern
- Extended Sentence of Detention (EDS)
- Detention for Life Sentences (discretionary life)
- Mandatory Life Sentence (Detention at His Majesty’s Pleasure)

When sentencing, courts are obliged to consider the welfare of the child and their best interests. The Sentencing Council published [sentencing guidelines](#) for courts to take into account.

### **The types of report required for children in court**

Reports are used to assist the court to decide the outcome of the case when a child appears for sentencing, or breach. The various types of court reports are:

- use of an existing report
- stand down report
- pre-sentence report
- progress report
- breach report

### **Using an existing pre-sentence report**

The court may sentence a child drawing on an existing pre-sentence report (PSR) if it has been produced in the last three months and been signed off through a quality assurance process. This should only be used where there has not been any significant change in the child’s circumstances since the last AssetPlus assessment. In these instances, the court officer will provide a verbal update to cover the new offence(s). You should be familiar with the court protocol in your area for dealing with requests for full PSRs and the circumstances in which an existing PSR can be presented with a verbal update.

## **The stand down report**

Stand down reports are used where:

- the child is well known to the youth justice service (YJS)
- the matters before the court are straightforward
- it would speed up the outcome

They are generally verbal reports used when the court is likely to give the child a disposal which does not require YJS supervision. If community supervision is likely to be under consideration, you should ask for a five-day adjournment to prepare a pre-sentence report. A verbal stand down report must not be used if there is any prospect of a custodial sentence.

## **The progress report**

Progress reports are used to provide the court with information about how a case is progressing. They may be used when a child has reoffended while on an order and is appearing in court for sentencing for the new offence; they may also be requested by a sentencer to track the child's progress and engagement. You may choose to make a recommendation for early revocation as part of a progress report.

## **The breach report**

A breach report is used to return a child to court where the service has been unsuccessful in engaging a child. Breach reports should always give an account of any positive engagement, progress against goals and factors which could support further engagement. It should indicate that you are prepared to continue working with the child and to support them; and suggest any alterations to be made which would achieve increased engagement. Please refer to ['How to respond to non-engagement'](#) for more detail on breach processes.

## **The pre-sentence report**

The pre-sentence report (PSR) is a written report produced and submitted to the court by the youth justice service (YJS). Its purpose is to assist the court to determine the most appropriate outcome for the child. Sentencing starts with the principle of proportionality, meaning the sentence should be commensurate with the seriousness of the offence, and may then take into account the child's status and vulnerability.

Section 30 of the Sentencing Act 2020 contains the legislative provisions to produce a PSR. The PSR should assist the court to understand the circumstances of the offence; and any aggravating or mitigating factors to consider in the sentencing decision. A PSR is always required when a custodial sentence is under consideration and for community sentences which require YJS supervision, to explain the suitability of the order (for the child) and any conditions which may be attached.

When the court requests a PSR it will give a non-binding indication of the seriousness of the offence and the range of sentences or requirements it wishes to consider. In circumstances where the court requests an 'all options' PSR, YJS court duty staff should ask the court to clarify their view of seriousness, which means clarifying whether custody is under consideration or not.

The PSR contains information on:

- the child's background and circumstances (the court is obliged to consider their welfare in determining the sentencing outcome)
- previous convictions
- responses to previous penalties imposed by the court

- aggravating and mitigating factors
- public protection concerns
- concerns about the safety and well-being of the child.
- positive factors, including information about any agencies involved with the child and how they can support the child's safety and well-being and public protection

The report should conclude with an explanation of the options available and a clear single sentencing proposal for the court to consider.

The court may also request that a 'dangerousness assessment' is undertaken if it considers there is 'a significant risk of serious harm to the public or the commission of further offences' (as set out in schedule 15 of the Criminal Justice Act 2003). For further information see [what to consider in an assessment of dangerousness in a pre-sentence report](#).

### **The information a pre-sentence report should contain**

You should present pre-sentence reports (PSRs) formally; paginated and with numbered paragraphs using the following standard format:

- front sheet
- sources of information
- assessment of the child
- analysis of the offence
- factors which will support positive outcomes for the child and promote public safety
- assessment of the need for parenting support including suitability for a Parenting Order
- conclusion and proposal for sentencing

Pre-sentence reports must be clear and concise and not exceed four pages. Exceptions to this would be if the case is very complex involving multiple offences or very serious (and possibly high profile). This is to assist sentencers to absorb the information presented to be able to make an informed decision and to determine an appropriate outcome. Overly detailed and irrelevant information may detract from key points and important information may be missed.

You should be aware that there is a disproportionate number of children from some groups in the justice system, including Black children, Gypsy, Roma and Traveller children and [children looked-after](#). Statistics also show that children from these groups can receive more punitive outcomes. When preparing a PSR, you may wish to include data on the current levels of over representation in your area to remind sentencers about unconscious bias in sentencing.

The introduction to the report should contain the authority to produce the PSR, the court that requested it and the date of the request. It should also indicate the status of the child e.g. following a guilty plea or trial; at a first or subsequent court hearing; and whether the child is bailed or remanded.

You should:

- state that the PSR is based on an AssetPlus assessment
- state the quality assurance process it was subject to prior to submission to the court
- confirm that it has been discussed with the child and parent or carer

- confirm that the child and parent or carer is aware of and understand its contents as well as any plan that has been jointly drawn up with them

You should be aware of the local arrangements for (digitally) distributing PSRs and ensuring timely circulation to the court.

### **The sources of information for the pre-sentence report**

The aim is to produce a high quality, comprehensive pre-sentence report based on all available information. The primary source of information will be the child (and their parents or carers). Secondary sources are also important and can provide other relevant information. Pre-sentence reports should include information from:

- one (or more) conversation, and any other work with the child
- at least one discussion with the parents or carers
- Crown Prosecution Service documents about the case
- the nature of any victim contacts regarding the offence
- AssetPlus and any additional specialist assessments
- other professionals involved, including the child's school, social worker etc

You should state whether the child was previously known to the youth justice service, the report author and how many interviews informed the report.

If you have not been able to access any specific source of information which you consider to be relevant, you should indicate with reasons why this was the case.

### **The front page of the pre-sentence report**

The front sheet of the pre-sentence report should follow a standardised layout, which contains the following information in list format:

- demographic information – name, date of birth, age at court hearing and address
- types and dates of offences under consideration
- court name and local justice area
- date report requested and date completed
- the name of the author of the report, job title and youth justice service office address

The front sheet should contain the following covering statement: "This is a pre-sentence report as defined in [Part 3 Chapter 1 Section 31 of the Sentencing Act 2020](#) and has been prepared in accordance with the [standards for children in the youth justice system](#) and relevant guidance." It should also state that it is a confidential document.

### **How to interview children for reports**

The purpose of the pre-sentence report is to obtain enough information from the child (and their parents or carers) and other sources to produce a high-quality document for the court to understand the child and the factors affecting them; and to help it to decide on an appropriate outcome. The information will largely be obtained from an AssetPlus assessment.

You should determine how many times you need to meet with the child to ensure that you have a comprehensive understanding of them and their circumstances. You should also speak to the parents or carers (with the child and separately) to gain as a full a picture as possible of home and family life. This should include a home visit to gain a sense of the environment in which the child is living.

Children and their parents or carers should understand the purpose of your meeting with them (you can write to them in advance setting this out); what information you require; how it will be used and what will happen to the report once completed. You should verify what information you can, particularly around education and any experiences of engagement with health or other services. Children (and their parents or carers) should be provided with a copy of the report on completion.

Before the meeting you should read the case summary and highlight the key facts and queries you want to raise with the child and their parents or carers. If the child has previously been involved with the youth justice service (YJS), you should review their record as it will assist you to identify if there have been any significant changes since the last assessment which may have contributed to the current situation.

The purpose of the interview is to gather information that gives a clear view of the child and their circumstances, so it is important to reduce any obstacles to engagement. Children facing court proceedings are likely to feel distressed, anxious and uncomfortable (as are their families), especially if appearing for the first time and irrespective of previous appearances and outcomes. Children who have had negative experiences of the youth justice system or are distrustful of authority figures may take time to engage and share their experiences. There can be a lack of trust in the justice system from some communities, so it is especially important when working with children from over-represented groups to take a friendly approach and put children at their ease.

Many children in the justice system have experienced trauma, have difficulty in forming attachments with others and may find it difficult to discuss their experiences. They may have undiagnosed learning difficulties or disabilities and experience problems in expressing themselves. You should encourage and support communication; and not assume the child is being uncommunicative or obstructive if they are having difficulty with anything you are asking them. If it is the first time of meeting, you can break the ice with questions about neutral topics – it should feel more like a conversation than an interview. If they are finding the process intrusive or don't want to share their thoughts or feelings, change the subject and provide them with opportunities to say what is bothering them. However, you should also be prepared for guarded or aggressive responses to questioning, accept the resistance, change topic and give the child opportunities to express their feelings throughout the process.

Some points to consider when engaging with the child are:

1. Choose a location where the child feels safe and comfortable, away from distractions. Do they feel safe attending a YJS office?
2. Timekeeping is an important indication of respect. If you are unavoidably late, apologise and explain why.
3. Treat them with respect throughout and show genuine concern and interest.
4. Be aware of your body language, communicate interest, sympathy and respect and have eye contact.
5. Use an informal and relaxed approach to put them at their ease and to encourage them to tell you about themselves.
6. The approach you decide to take should always be appropriate, sensitive to the child, consider speech, language and communication needs, learning ability and ability to engage and comprehend generally.
7. Observe how they may respond to questions asked e.g. not knowing the answer and feeling confident to say so rather than saying what they think you want to hear.
8. Encourage children to give you their account of the offence, why they committed it and their attitude to what happened.
9. Ask them about their interests, activities they engage in and their hopes and aspirations.

10. Ask for their opinion about how they could address what has happened and move forward, including any reparation.
11. If there is a victim, considering whether direct or indirect reparation would be meaningful for them.
12. Explore any other issues which may impact on the suitability of the type of order, requirements under consideration or the proposed supervision plan, such as their education, health, religious observance or other commitments.

There are a range of techniques available which can assist you. 'Socratic questioning' where you ask – the 'when', 'where', 'who' and 'why' to encourage the child to express themselves. Another technique is the 'Columbo technique' where you place the child in the position of being the expert in their own experiences. You do this by asking a question like, "can you help me to understand why...". By communicating genuine interest in the responses and a sense of curiosity in the answers, you can encourage a more full and honest disclosure and account of their experiences. This might be a good technique to use when their version of events relating to the offence differs from that of the official account. The approach you decide to take should always be appropriate, sensitive to the child, consider speech, language and communication needs, learning ability and ability to engage and comprehend generally.

### **What the 'assessment of the child' part of the pre-sentence report should contain**

The aim of this section is to provide information on the child; their family, personal and social circumstances and how they relate to their behaviour. This will be based substantially on the AssetPlus assessment. It is helpful to produce this section first before moving on to the offence analysis, as it helps the court to understand the child's circumstances.

The content of this section should focus on relevant and significant factors as they relate to the matters before the court. The section should provide information about reasons for the child's behaviour rooted in their background and life experiences. When determining the relevance of information for this section, you should ensure that what is included is pertinent and focused and the information provided contributes to an understanding of the child and their behaviour. It should be mitigating and present an objective picture of the child.

The court is obliged to consider the welfare of the child in the sentencing process. You should ensure that you produce a report which provides sufficient information about:

- their status
- aspirations in relation to education; training and employment
- their living arrangements (whether at home or elsewhere)
- the nature of their relationship within the household (supportive or otherwise); and inclusion of any information relating to the family situation and circumstances (tensions, estrangements etc) including concerns about failure to identify concerns earlier
- health needs
- the family's financial situation, given that courts are also required to consider compensation

Past or current involvement with children's services should be discussed as well as the possible impact of trauma because of experiences of abuse, neglect or dysfunctional family life on the child's behaviour. You should also consider contextual safeguarding issues and factors in the child's associates or environment placing them at risk of exploitation into criminal activity.

If necessary, the court has the power to ask local authorities to carry out investigations into child defendants under the [Children and Young Persons Act 1969](#). This is rarely used, because children's needs are assessed as a core part of the pre-sentence report (PSR). However, if you experience any difficulty in obtaining information from children's services, the court can use this power to ensure information is presented.

There should be an explanation of how the child spends their leisure time; who they associate with, activities they engage in, and any future goals and aspirations. It may also be relevant to discuss their physical and/or emotional maturity as poor health, physical and emotional difficulties and disabilities could all impact on the type of activities and interventions which might be proposed in the PSR.

Consideration should also be given to the child's response to any previous disposals, highlighting motivation and engagement, and contextualising any failures of the youth justice service (YJS) to engage them. This section should also include an assessment of how the child's parents/carers have responded to their behaviour and whether, and to what extent, they can support and facilitate the child's engagement with the order.

As the court may also be considering the potential for a parenting order, report authors should assess whether any assistance with parenting support is required and how this might be provided on a voluntary basis.

Contextual safeguarding issues should always be considered, particularly as information about the child may be held elsewhere but could be relevant. This may include:

- affiliation to gangs, or geographical or territorial areas which might cause conflict with others or restrict the venues available for interventions
- concerns about potential conflicts with other children known to the YJS
- attitudes, behaviours or choices which may impact on safety

You should check whether the child has been subject to a social care assessment. If subject to child protection arrangements, you should obtain a copy of the assessment and refer to it in the PSR. Within this section you can also refer to any additional specialist assessments which have been undertaken. You should mention them, integrate key information into the body of the PSR and make the specialist report available at the court's request.

### **What the offence analysis section of the pre-sentence report should contain**

The aim of the offence analysis is to outline the facts surrounding the offence as accepted by the court at the point of conviction. It should compare to the child's account, highlighting any differences in their account from the Crown Prosecution Service (CPS) advance disclosure information. If the analysis covers more than one offence, pre-sentence report (PSR) authors should cover the most serious offence first, unless a chronological account is necessary to understand events.

The purpose of the offence analysis is to:

- provide the court with an understanding of why the child committed the offence (it should not simply repeat the CPS version of events)
- provide an independent assessment of the seriousness of the offence (weighing up aggravating and mitigating factors)

- give the 'basis of plea' i.e. what are the relevant facts underpinning the conviction, accepted by both prosecution and defence
- help the sentencer to understand the impact of the offence on the victim and whether any form of restorative activity is appropriate
- note whether the child is looked after and, if they are, to consider whether, by being charged, they are treated more punitively for this behaviour than a child who lives with family

This section analyses:

- the context in which the offence occurred including the immediate circumstances
- any aggravating or mitigating factors, including whether the offence was committed on bail or whilst the child was already on a court order
- the extent to which the child's actions may be as a result of being exploited into criminal behaviour by others
- whether their actions were planned or impulsive
- an assessment of the child's culpability, with reference to their emotional health and well-being and level of maturity
- adverse childhood experiences and how the impact of trauma has influenced the child's behaviour
- learning difficulties; maturity and ability to understand the seriousness of their actions and the consequences
- whether and how the offence fits in with a wider pattern, or if not, stating that it is a one off or a first offence
- the impact on the victim/s and the child's understanding of this
- attitude to the victim, to the offence and its consequences
- indications of remorse and regret; and desire to make amends
- an assessment of the child's motivation (with specific reference to any discriminatory views which are significant to the offence)
- any other information which is directly relevant to explaining the offence and forming a view about its seriousness such as being under the influence of substances, mental and/or emotional ill health, peer influences and family and other difficulties

The view of the victim in relation to the offence, any restorative activity (including what this might look like) should be included to assist in the sentencing decision.

### **What happens if the child denies the offence(s) while you are preparing a PSR**

If the child is found guilty at trial and maintains their innocence, you should state this in the offence analysis with any other information which explains the reasons for it. You should try to engage the child in discussion about themselves to understand possible motives for the denial. It may be appropriate to speculate why the offence occurred, for example referencing the common factors influencing offence types. You should thoroughly evidence your conclusions.

There are different forms of denial. You should consider the child's emotional maturity and how they are trying to communicate what they mean. Although they may appear to be an effective communicator, they may be struggling to express themselves and say what they really feel. There is also a risk of disparity in admission of guilt in some over-represented groups. You should clearly state in the pre-sentence report (PSR) that denial is not necessarily a predictor of increased risk of harm, just as an admission of guilt does

not decrease risk. If the child indicates they want to change their future behaviour, this is a positive factor which should be reflected in the analysis

### **How to consider diversity when writing a report**

When considering diversity, it is helpful to think of the needs of children who have protected characteristics under the Equality Act 2010. Protected characteristics are race, sex, disability, sexual orientation, religion and belief, age, marriage and civil partnership, gender re-assignment, pregnancy and maternity. Many children in the justice system may present with multiple protected characteristics. Having regard to protected characteristics means not discriminating against, harassing or victimising another person because they have or are perceived to have protected characteristics or are associated with someone who has, through either direct or indirect discrimination.

You have a responsibility to always treat children with fairness, dignity and respect, including in the preparation and content of reports. Interviews with children and their parents or carers must be sensitive to factors of difference, and you must take all reasonable steps to ensure that these are respected, including arranging for translation services where necessary.

[Section 95 of the Criminal Justice Act 1991](#) refers to avoiding discrimination on the grounds of race, sex or any other improper ground in the administration of justice. Despite this, those from ethnic minority groups are over-represented at all stages of the criminal justice system. Children with Black, Asian and Mixed ethnicity as well as those from Gypsy, Roma and Traveller communities are overrepresented in the justice system. Unhelpful narratives about these children and other disadvantaged groups support racial and other stereotypes, whilst often missing key factors in their lives which make them vulnerable to the exploitation of others. For instance, Patrick Williams's research work on the [London Gangs Matrix](#) identified how negative labelling of children from Black backgrounds can prevent them being perceived as victims.

Report authors should take conscious steps to ensure that reports are free from discrimination. Descriptions of individuals and their circumstances should not contain cultural or racial stereotypes. Every effort should be made to ensure that ethnicity is appropriately referenced and not presented in a way that might adversely impact on the outcomes for the individual; and that vulnerabilities are not presented as increasing risk of reoffending.

Race must not be ignored. It should be put into the context of the child's experience, including incidences of racism or a sense of injustice in relation to issues such as school exclusion or a perception of being targeted by the police. There is evidence that Black and Mixed ethnicity children can have less trust in 'systems' including the criminal justice system therefore additional work should be undertaken with children from these communities to ensure that they understand process and outcomes, and that their experiences are understood.

It is also important that the rationale and reasoning behind racially motivated offending is explored, understood and contextualised.

Girls in the youth justice system are in the minority. They can experience discrimination through stereotyping, sexist attitudes and inequality of opportunity, for instance if they have caring responsibilities for others. Notions of femininity may lead to certain views about their behaviour, experience of abuse and trauma can manifest in different ways from boys and different interventions may be appropriate to meet the needs of girls. Many girls in the justice system have been victims of abuse, violence and exploitation, including in the context of the offence which has brought them before the court. This needs thorough exploration within the report.

Faith, religion and belief may also be relevant when assessing the child's circumstances and family life. Religious observance should always be accommodated when proposing and planning interventions with the child and their family. The support of faith and community groups should be explored depending on the nature of the offence and the needs of the child.

The requirements of children with disabilities should also be considered. The use of specialist assessments and contact with organisations and agencies who are working with the child may be able to provide informed information about their abilities.

The impact of physical or mental health; educational needs; speech, language and communication problems may all impact on the type of intervention the child can undertake and may be under-diagnosed in some ethnic groups. Additionally, the impact of trauma and difficulties with attachment may not immediately be apparent but may be contributing to the way in which the child is behaving and influence the way in which they are worked with. This is likely to be very relevant to children who have had experience of being looked after. You should be aware of 'invisible' disabilities, such as mental health problems or learning disabilities, and ensure that assessments are thorough and well researched.

Adolescence is a time of emerging sexuality and coming to terms with sexuality. Sexual norms can vary considerably from person to person and need to be treated with respect and sensitivity. Children may not feel comfortable talking about this aspect of their lives, may not have fully come to terms with what it means and may need support in exploring their own identity. This may make them feel vulnerable, unsafe and anxious.

#### **What the assessment of the risk to the community section of the pre-sentence report should contain**

This section should logically flow from the preceding information (offence analysis and assessment of the child), be congruent with the AssetPlus assessment and provide an overview of the risk to the community. It includes the following assessments:

- factors supporting positive outcomes, leading to desistance
- public safety considerations
- risks to the child's safety or wellbeing

When considering the likelihood of reoffending, you should consider the probability of serious harm which is defined as 'death or serious personal injury whether physical or psychological'. Risk of serious harm is the likelihood and imminence of this happening, and the impact if it did.

The likelihood of reoffending is based on the AssetPlus assessment. You should provide a clearly informed view of the:

- likelihood of the child committing further offences
- nature, degree and imminence of this occurring
- positive factors which, if built upon, could support desistance

This requires professional judgement, assessing all the information gathered and locating it in the context of what interventions might be effective in achieving positive child outcomes, leading to reduced likelihood of offending. You should distinguish between the:

- likelihood of reoffending
- seriousness of future potential offending behaviour

Whilst there may be a strong possibility of further offending, it does not necessarily follow that this will pose a direct threat of serious harm. The definition of serious harm is intended to apply to very specific circumstances where the offence warrants a custodial sentence to protect the public from death or physical injury.

Assessments should take account of positive progress being made by the child, and the reasons for this. Explanations should be unbiased, objective and not use language which unnecessarily inflates risk or negatively stereotypes the child. Evidence shows that children with Black, Asian or Mixed ethnicity can be perceived as more likely to reoffend than White children with a similar profile, and as a result become subject to a more punitive intervention than is warranted. Girls who commit certain types of offences (e.g. violence and aggression) may be viewed as a more serious risk than is warranted, because this is not regarded as normal for girls. In assessing risk of harm, you should consider the response to it and how community sentences can meet particular needs and what support cultural, and sex specific organisations and resources could provide.

The report should consider the types of intervention and support which will contribute to positive outcomes for the child and increase motivation and engagement.

You should consider the positive factors in the child's life and their views of what would help them. A balanced judgement needs to be made about how supportive and positive factors offset some of the more negative considerations and concerns, when concluding how to manage public protection.

You must clearly evidence conclusions about public safety. Patterns of potentially harmful behaviour and their impact must be balanced with contextual information which helps to provide an understanding of the risks presented and the triggers and situations in which they are likely to arise (who, what, when, where and how) and how the child can be supported to a more positive life.

A further consideration in this section (unless it has been specifically included within the 'assessment of the child' section of the pre-sentence report), is the safety and wellbeing of the child. This is undertaken to consider the:

- impact of the sentence on them
- type of support and assistance to include in their intervention plan
- negative impact of custodial sentences in particular
- actions or omissions of others which may affect the child's safety

An assessment of risk to the child should discuss:

- their emotional and mental health and well-being
- evidence of self-harming or suicidal thoughts or actions
- any risk-taking behaviour which might lead to harm

### **What to consider in an assessment of dangerousness in a pre-sentence report**

If a child is convicted of a specified offence (these are set out in [schedule 18 of the Sentencing Act 2020](#) and the court considers there is 'a significant risk of serious harm to the public or the commission of further offences', it must consider whether dangerousness is involved and specifically ask the youth justice service (YJS) to undertake an assessment for this purpose. Serious harm is defined as 'death or serious personal injury whether physical or psychological'.

A dangerousness assessment should only be used in cases where a court has made an assessment of dangerousness in accordance with the definitions given in the Act. It should not be used to refer to children who may be assessed by a YJS as presenting a risk of serious harm to others but who have not committed specified offences listed in [schedule 15 of the Sentencing Act 2020](#) or to those who have committed such offences but a court has determined they do not meet the threshold of posing a significant risk to members of the public. [Section 308 of the Sentencing Act 2020](#) sets out what should be considered in the assessment.

This section of the pre-sentence report should start by setting out that the offence is a specified offence under [schedule 15 of the Criminal Justice Act 2003](#), and if relevant, that the offence is a serious offence as defined by section 224 of that Act (i.e. it is a specified offence and it is punishable by a custodial life sentence or detention for a period of ten years or more).

The assessment of dangerousness should consider all available information, including:

- the past behaviour of the child
- the offences they were convicted of
- their nature and circumstances including any concern about the child being a victim of exploitation

It should also take into account any previous patterns of behaviour (relevant to the offence type) and any known behaviour which did not proceed to charge such as incidents in school, which may have been a cause for concern. As with all other forms of assessments undertaken on children, their level of maturity may be relevant when assessing future probable behaviour.

You should not make a recommendation either way about the dangerousness of the child. The report should present the facts of past harmful behaviour, whether the child was convicted or not, to enable the court to make this decision.

You should outline a comprehensive and appropriate intervention plan to increase safety and public protection.

For more information read: [The Criminal Justice Act 2003](#) [The Sentencing Act 2020](#) on 'dangerousness' [Public Protection Sentences and 'Dangerousness'](#)

### **What the conclusion and proposal of the pre-sentence report should contain**

The conclusion and proposal is the final section of the pre-sentence report (PSR). It should move towards a single proposal for sentencing, following clearly and logically on from the information contained in the previous sections of the report. The proposal should be derived from:

- the non-binding indication of the seriousness of the offence
- assessment of the child and their circumstances
- the author's assessment of the seriousness of the offence
- the offence analysis
- their welfare and any specific considerations including concerns about exploitation or the negative effects of custody
- interventions which will support positive child outcomes, leading to desistance
- constructive plans for the child's future

If the court provided a preliminary view on a particular disposal, but another option is preferred, the reasons for this should be explained. PSR authors should always consider all realistic alternatives to custodial orders.

The report should address the type of sentence and requirements that are most likely to support desistance and reduce the likelihood of harm to others, focus on how the child can be supported to develop a pro-social identity and lifestyle which builds on their strengths and interests. The proposal should be tailored to the circumstances of the child and the offence/s committed. Report authors should always propose a community alternative, if at all possible, to ensure that use of custody is limited only to where it is considered the only appropriate option. See also [when to propose custody in a pre-sentence report](#).

Proposals for community sentences with youth justice service (YJS) intervention should outline:

- the expectations of the order
- the content of the intervention plan and how this will support the development of the child's pro-social identity
- the assistance and support that will be provided to the child and their family
- the child's view of the proposal and their collaboration in drawing up their plan
- the suggested length of order

If the court is considering imposing a custodial sentence, the impact and adverse effect on the child should be explicitly stated. This includes the impact on their:

- education, training and employment
- accommodation
- family relationships
- emotional and mental health
- safety and wellbeing

Factors related to safety and well-being should be addressed within the context of the child's age, maturity and vulnerability and their first experience of loss of liberty. Some of these aspects may be significantly heightened for children who have been exploited, and experienced trauma. In these instances, the harmful effects of custody should be thoroughly explored, and the use of custody mitigated against.

This section should also explain the extent to which the proposal would support positive outcomes (evidence suggests that increasing experiences of custody increase the likelihood of reoffending). If it appears that custody is highly likely or is the only proportionate option, the report should discuss the potential length of sentence, how the child can be supported and risks managed with intensive support from the YJS.

### **When to propose custody in a pre-sentence report**

The negative effects of custodial sentences on children are well documented. Custody for children should be limited to where it is considered the only appropriate option; where considered necessary it should be for the shortest appropriate period. The court should be presented with a community alternative, even if the child is refusing to work with the youth justice service (YJS). The YJS should always state their willingness to work with the child. The use of intensive community orders should always be fully explored and any very exceptional decisions about why they are not appropriate be defensible.

However, if after a carefully considered assessment, custody appears to be the only viable option because the YJS cannot manage extremely serious public protection concerns and risk of serious harm to others, the decision not to offer a community sentence should be approved by a senior manager. Prior to making this decision all available options should have been thoroughly explored and the reasons for not being able to manage the child in the community documented. The PSR should propose the length and type of custodial sentence and explain how it will impact on the child and their family.

The proposal should not include an outline of proposed interventions, as there is no guarantee they can be undertaken in custody.

### **What to do if a child is likely to become 18 years old during the sentencing process**

Sentencing powers are determined by the person's age at the time of conviction, and in most cases a child turns 18 after an offence is committed but before conviction they will be tried in adult court.

Sentencing guidelines state that courts should use the sentence that would have been given at the time the offence was committed as a starting point, and youth and maturity continue to inform sentencing decisions even after the child turns 18.

You should identify children who need extended supervision as early as possible. Extended supervision is the continued supervision of children who become 18 years of age at the half-way point of a Detention and Training Order. An assessment of what this might mean should be included within pre-sentence reports (PSR) and be noted in any recommendations made for sentencing. Once allocation of sentence supervision has been agreed, you should indicate which agency will be supervising the child in the PSR.

Read this [practice advice on extended supervision](#) for further information.

### **What to consider when writing a court report when a Referral Order is under consideration**

A Referral Order is the most common sentence for 10 to 17-years-olds. It can be given in the following circumstances:

1. Children that plead guilty and are convicted by the court for the first time. In these instances, it is the only available sentencing option apart from custody.
2. On a second or subsequent occasion in certain circumstances (see below).

The [Sentencing Guidelines Council for Children and Young People](#) specify that a second or subsequent Referral Order should be considered in the following circumstances, provided there has been a guilty plea:

- the offence is not serious enough for a Youth Rehabilitation Order (YRO), but the child appears to require some intervention; OR
- the offence is serious enough for a YRO but it is felt that a Referral Order would be the best disposal for the child (for example, this is because the child responded well in the past to such an order and the offence now before the court is dissimilar to that for which a Referral Order was previously imposed)

In these instances, although the Referral Order conditions are met, as custody is not being considered, it is unlikely that a pre-sentence report (PSR) will be requested, although a verbal report could be required by the court.

Arguments should be made against the use of custody in preference for the community alternative. Where the custody threshold is met, the PSR may include a more intensive Referral Order Contract. To prepare

this, the youth justice service (YJS) should consider convening an informal 'pre-sentence panel' involving the child, their parent or carer, YJS and volunteer panel members to consider the likely content and to inform the PSR proposal.

If a Referral Order is given, the child is referred to a Referral Order Panel for the development of a Referral Order contract which is then managed by the YJS.

After the court has sentenced the child to a Referral Order and the first panel is convened, the YJS should draw its attention to the draft contract within the PSR. However, it is the Referral Order Panel which then determines the content of the contract. The panel may vary what was proposed to the court, although should consider any comments it made at the point of sentence.

For further information, please see the [Referral Order guidance](#).

If a child is likely to reach their 18th birthday whilst being supervised by the YJS on a Referral Order, you should advise the court that whilst the YJS retains the statutory duty to implement the order, the YJS and National Probation Service will agree on how the different elements of the Referral Order contract are delivered and which agency will supervise them. For further information see the section on Transitions to the National Probation Service in the [Joint National Protocol for Transitions in England](#) and the [Youth to adult transitions principles and guidance - Wales](#).

### **How to produce a Referral Order report**

The Referral Order Panel report is produced after the court has made the decision to place the child on a Referral Order. A panel is convened at which the content of the Referral Order contract is agreed with the child and their parents/carers. The report is produced to inform the panel's discussion.

The format for a Referral Order Panel report is locally determined and should ideally follow a similar format to the pre-sentence report. It will assist panel members to understand:

- the reasons and circumstances around the offence
- the child's situation
- any safety concerns for the child or others
- what the Referral Order contract could contain

The report must be concise (usually no more than two pages), written in plain English and jargon-free. Diversity should always be considered to ensure that there is no discrimination on the grounds of race, sex, religion, looked after status or sexual orientation.

An initial section should outline the facts of the offence as accepted by the court at the point of conviction, and the child's views of the offence, highlighting any differences and explanations of where accounts differ.

The report should use information obtained from the AssetPlus assessment to discuss concerns in relation to supporting desistance, and safety concerns about the child and the public. The report should be strengths based, highlighting the positive aspects in the child's life which can support development of a pro-social identity and positive child outcomes including constructive factors in their lives, interests and the support networks around them.

The sentencing court may make advisory observations regarding areas of concern that they want the report author to consider. The Referral Order Panel report should conclude by setting out these issues. If a

draft Intensive Referral Order Contract was included in the pre-sentence report, the report should refer to this and draw the panel's attention to any comments the court made about the contents.

The conclusion of the report should indicate what interventions could help support desistance. Any proposals regarding the content of the contract should be proportionate and consider:

- the child's experience of the youth justice system
- whether this is a first Referral Order
- whether there has been a previous sentence
- whether custody was under consideration

The report should also indicate the level of supervisory contact with the child and the number and frequency of contacts throughout the order. Please see [how to decide the frequency of contacts arranged with children](#) for more detail.

You should make the Referral Order Panel report available to panel members at least two days before the initial panel meeting or within other locally agreed timescales. The report should be distributed according to locally agreed protocols and information-sharing agreements, to ensure that data protection and privacy requirements are observed.

Read the [Referral Order guidance](#) for further information.

### **What to do when a child receives a Referral Order**

Referral Orders are managed through a Referral Order Panel. The panel should take place no more than 20 days after the court has made the order.

The composition of panels may vary, but will involve volunteers from the local community, who are trained by the youth justice service (YJS) to sit on the panel; alongside the co-ordinator (of the panel) and the child's YJS supervising officer. The panel agrees what interventions will be delivered to the child, taking account of the information presented to them in the report.

Children and their families/carers are invited to attend and to work with the panel and the supervising officer to develop and agree a 'contract' which will include a range of goals, activities and interventions. The aim is to:

- assist the child to understand how they can build on their strengths and interests
- achieve positive outcomes for the child
- support the child to live a safe and crime-free life and make a positive contribution to society

When developing the contract, the panel should consider what is a proportionate response in terms of the expectations placed on the child, their wishes, feelings and interests as well as the implications for the victim. The supervisor will present information about the child to inform decision-making.

Read the [Referral Order guidance](#) for further information.

### **When to consider a Youth Rehabilitation Order in the pre-sentence report**

When the court has indicated the offence is serious enough to warrant a community penalty and the child has made a guilty plea, the option will be a Youth Rehabilitation Order (YRO) with requirements attached. YROs with Intensive Supervision and Surveillance, and Intensive Fostering are specifically available as alternatives to custody.

You should identify if the proposed length of the YRO will run past the child's 18th birthday and whether they are likely to be managed by the youth justice service or National Probation Service, as this can have an impact on the requirements attached to the order and whether they can be delivered by the Probation Service.

A YRO will take effect on the date the order is made and can run for up to a maximum of three years.

If the child reoffends whilst subject to a YRO or Referral Order, the court cannot sentence to a new YRO, unless the existing order (including any existing Referral Order) has been revoked.

If a child is being sentenced for two or more associated offences on the same sentencing occasion, the court can impose YROs for each of the sentences, but they must be of the same type e.g. one cannot contain intensive conditions and the other not (Schedule 1 para 31 Criminal Justice and Immigration Act 2008). The court must specify if the orders are to run consecutively or concurrently. The cumulative number of hours must not exceed the maximum specified for any particular requirement. For example, if two Unpaid Work Requirements are included in separate YROs to run consecutively they should not exceed the maximum of 240 hours.

If a child is sentenced for another offence during a Detention and Training Order (DTO), the court can impose a YRO to run concurrently with the licence period or to commence at the end of the supervision of the DTO. If the YRO is concurrent, it does not revoke the DTO, but consideration should be given to the YRO and DTO supervision being complementary (Section 181 Sentencing Act 2020).

### **The requirements that can be attached to a Youth Rehabilitation Order**

There are a range of requirements that can be attached to the Youth Rehabilitation Order. They are intended to be a menu of options you can use and tailor to the needs of the child. You should be familiar with the requirements available, consider what is appropriate based on your assessment of the child, their needs and in their best interests. You should assess whether the child can realistically manage the expectations placed on them.

There are no limits to the conditions which can be attached to a YRO, however, the requirements recommended should be necessary to support desistance and community safety. The composition of the YRO should be a proportionate response to the seriousness of the offence.

You should also note that the length of the YRO and the individual requirements may run to their own timescales, which may be shorter than the overall YRO. The YRO will run for the length of its longest (or latest finishing) requirement. A Supervision requirement will run for the full length of the order and not finish before any other requirement. The court may specify in the order the date or dates by which particular requirements must be completed.

The proposed requirements should be agreed with the child (and their parents or carers) to:

- establish their willingness and motivation to engage and whether there would be any difficulties in engaging with a particular requirement for health or other reasons
- whether the child is likely to be able to engage with multiple interventions and different professionals
- ensure there will not be any unintended consequences from imposing a particular requirement
- ensure the requirements do not interfere with the child's education, training or employment
- ensure the requirements do not conflict with any other activity the child may be engaging in e.g. as part of their care plan or religious observance

Available requirements are:

- Supervision Requirement
- Programme Requirement
- Activity Requirement
- Attendance Centre Requirement
- Curfew Requirement
- Education Requirement
- Residence Requirement
- Local Authority Residence Requirement
- Drug Treatment Requirement
- Drug Testing Requirement
- Mental Health Treatment Requirement
- Intoxicating Substance Treatment Requirement
- Exclusion Requirement
- Prohibited Activity Requirement
- Electronic Monitoring Requirement
- Unpaid Work Requirement

As an alternative to custody, the court may also impose a YRO with:

- Intensive Supervision and Surveillance (for cases that meet the custody threshold)
- Intensive Fostering (for cases that meet the custody threshold)

### ***The YRO Supervision Requirement***

Youth Rehabilitation Orders (YROs) usually have a Supervision Requirement requiring the child to meet with a supervising officer from the youth justice service (YJS) for the full length of the YRO. The child must work with the YJS and a designated YJS worker be responsible for leading work with the child. The YJS, together with the child, should develop and agree a plan setting out what interventions they will take as part of the Supervision Requirement.

Before writing the pre-sentence report, you should discuss with the child what activities will be part of their supervision plan and give an indication of what these might be in the pre-sentence report. The supervision plan should be proportionate to the frequency and seriousness of offending, taking into account the safety and well-being of the child and need for public protection. You will determine the number and frequency of statutory contacts you and others have with the child for the duration of the order, based on your assessment of the level of intervention required. A contact is a meeting between the child, the YJS case manager, another member of the YJS, or a member of another agency.

Please see [How to decide the frequency of contacts arranged with children](#) for further information.

### ***How to manage the YRO Supervision Requirement***

A single youth justice service (YJS) case manager should be allocated to the child who will co-ordinate, sequence and monitor the completion of the requirements. If you are the case manager, you are responsible for ensuring:

- the completion of the AssetPlus assessment
- how the different requirements will be delivered, which agencies and individuals will be involved and coordinating and overseeing the overall activity

- the level and frequency of contact with the child has been determined
- regular reviews take place to monitor the child's needs, progress and engagement
- early revocation is considered where there is positive progress

At the start of the order, you should collaborate with the child to develop the supervision plan, taking into account their views and interests. You should explain the expectations and ensure they can engage and will receive the necessary support to help them to successfully complete the order.

If the child is subject to a Programme Requirement (group work or one-to-one) or an Activity Requirement (engagement in a particular activity for a specified number of days), you should:

- ensure the child understands what the requirement means in terms of participation, how they will attend/engage and who will be delivering the sessions to them
- advise the child how many sessions they will be required to attend and the purpose of the sessions e.g. to take part in reparation or to undertake a programme that relates to the type of crime they have committed
- ensure that any individual or agency delivering on behalf of the YJS is aware of the child's needs and goals and any other factors which may have a bearing on how they deliver the programme or activity
- monitor the child's engagement and progress with the programme or activities, by seeking their views on how they feel it is going and obtaining the views of staff or agencies delivering inputs on behalf of the YJS
- help the child to reflect on what they have learned and how it will assist them in the future
- record attendance and progress on the YJS case management system from the programmes and activities in which they have participated

### ***The YRO Programme Requirement***

A Programme Requirement is the condition to engage in a set of activities (a programme) at a specified place for a specified duration.

### ***How to manage the YRO Programme Requirement***

Where a Programme Requirement is used alongside a Supervision Requirement, you can decide on a case by case basis whether you will assign any of the Supervision Requirement contacts to the Programme Requirement if being delivered by another agency or individual.

### ***The YRO Activity Requirement***

An Activity Requirement requires the child to engage in activities for a specified number of days (no more than 90 days in total). It will usually require the child to engage in reparation.

### ***How to manage the YRO Activity Requirement***

Where an Activity Requirement is used alongside a Supervision Requirement, you can decide on a case by case basis whether you will assign any of the Supervision Requirement contacts to the Activity Requirement if being delivered by another agency or individual.

### ***The Attendance Centre Requirement (as a YRO requirement or stand-alone condition)***

Attendance Centres are available as a requirement within a Youth Rehabilitation Order (YRO), for children aged 10 to 17.

A Junior Attendance Centre (JAC) can also be used as a stand-alone condition in the following circumstances:

- as part of a youth conditional caution
- as a licence condition on release from custody (including for 18-year-olds who are under the supervision of the youth justice service (YJS))
- under section 60 of the Powers of Criminal Courts (Sentencing) Act 2000 for non-payment of a fine, and as a Youth Default Order under section 13 of the Criminal Justice and Immigration Act 2008

If the JAC is a requirement of a YRO, the child will be required to attend for a set number of hours, on set days (usually at the weekend). It can be considered when the child is attending education, training or employment on weekdays. When considering the number of hours of attendance to propose in a pre-sentence report, you should consult with the JAC Officer in Charge.

If a child is aged 16 years or over at the time of conviction, the number of hours which they must attend, are on aggregate:

- no less than 12 hours
- no more than 36 hours

If the child is aged over 14 but under 16 at the time of the conviction, their aggregate number of hours must be:

- no less than 12 hours
- no more than 24 hours

A child cannot be asked to attend:

- for more than one session in any one day
- for more than three hours in one session

The Attendance Centre must be available in the child's local area and there must be a place available for them before the requirement is proposed to the court.

In deciding on whether to recommend a child for a JAC Requirement your AssetPlus assessment should consider:

1. The child's needs, maturity and readiness to attend a JAC, their previous engagement with the YJS, what they feel about attendance, how the sessions and programmes on offer would be beneficial to them and whether there are any alternatives.
2. Whether they can successfully complete the number of hours required, whether there is anything that would prevent their attendance e.g. attending education, training or employment or any other activities they take part in, or being subject to electronic or GPS monitoring that restricts their movement to certain areas. Consideration also needs to be given to the distance the child has to travel to attend the JAC and whether the journey is feasible.
3. Whether the child's health and wellbeing affect their ability to take part in the activities or to complete the required hours.

4. An assessment health and safety for the child and others. The assessment should consider whether the child can safely mix with others who may be undertaking group activities at the JAC, whether there are any safeguarding concerns and the child's general ability to cope in group situations.

### ***How to manage the Attendance Centre Requirement***

If the court has imposed attendance at a Junior Attendance Centre (JAC) as part of a Youth Rehabilitation Order (YRO), you will be the responsible 'officer in charge' of the JAC Requirement as well as any other requirement in the YRO (including breach). Where a child receives a JAC as a stand-alone outcome, the 'officer in charge' will be the responsible officer for the order (including breach). The responsible officer should notify the child of the details of attendance.

There is no prescribed programme of activity for a JAC. However, it should be:

- purposeful
- have an educational and vocational focus
- engage the child in positive developmental activities promoting desistance
- support positive child outcomes
- support the development of emotional and physical well-being, employability and life skills

You should be familiar with what is being provided and what the child is expected to do. Sessions are usually delivered on a rolling basis over a several weeks. Activities should promote engagement, take account of the diverse needs of the children attending and ensure there is appropriate provision for girls specifically.

The JAC may include sessions on the following:

- assistance with education, training and employment (including vocational activities and guidance on accessing training courses and job search)
- life skills (problem-solving skills, dealing with peer pressure, developing healthy relationships)
- confidence building, identity exploring, goal setting and planning for the future
- restorative justice and victim work to help to understand the impact of crime on the individual, victim and community
- there is no requirement to offer sport or physical exercise, however it may promote a healthy lifestyle. If it is offered, it must be delivered by a qualified coach and first aiders must be present

Children who are required to attend should receive an induction which explains to them what is expected in terms of attendance and participation in the sessions provided. The child's youth justice service (YJS) worker may do this or agree that it is delivered by the JAC Officer in Charge.

You should ensure the child is provided with information concerning dates and times/schedule of attendance and support them by reminding them of the need to attend in advance of each session, to assist them to engage.

There should also be an assessment at the start of the child's engagement with the JAC to ensure that safeguarding and public protection is fully considered. You should ensure you share any information which may be relevant to enable the JAC to comprehensively undertake this assessment, as well as any information which may be relevant to understanding the child's ability to engage with the activities and sessions.

You should monitor the child's level of engagement, understanding and progress and discuss this with them at regular intervals to help them to reflect on what they are learning and pass on positive feedback. You should also liaise with the JAC to obtain information from their records and perspective about the child's involvement and attendance.

If there are any failures to attend and/or engage you should follow up with the child to find out the reasons why and discuss with them what you and/or the JAC can do to support their engagement. If breach action is likely to be a consideration see [how to respond to non-engagement](#).

If the child turns 18 at any point during the JAC Requirement (when a requirement of a YRO), the YJS should retain responsibility until the completion of the requirement.

### ***The Curfew Requirement (as a YRO requirement or stand-alone condition)***

The Curfew Requirement means the child must stay in a specified place during specified hours. It may be appropriate when there is an identified time-based pattern to the child's behaviour. There can be more than one specified place and period for different days. The curfew cannot be for less than two hours or more than 20 hours in any 24-hour period with a weekly minimum of 112 hours. There cannot be different periods of curfew on different days and the requirement may not exceed six months.

Curfews are usually imposed overnight, but daytime curfews are also possible in exceptional circumstances. If a daytime curfew is under consideration, you should consider the effect on the child's education, training and employment. When assessing whether to use a curfew, you should consider:

- the curfew time
- the child's age, maturity and ability to understand the requirement
- the behaviour the curfew is trying to prevent
- any commitments the child has such as maintaining contact with family members who live separately
- the type of accommodation the child is living in, the implications of imposing the requirement (on the child and the household) in that accommodation, and whether monitoring equipment can be installed e.g. it may not be possible in a hostel or supported accommodation

If the curfew requires that the child does not leave their accommodation, checks need to be made to ensure the child is not unduly at risk in the household and what the impact will be on the household and any stigma it may cause. Consideration also needs to be given to how the curfew would be monitored e.g. electronically or by other means.

You should explain to the child (and their parents/carers) what the curfew means, discuss how the child can be supported to comply and the implications of not doing so. Parents and carers should be fully involved in the process.

If an Electronic Monitoring Requirement or a GPS tag is to be attached please see information on the [The YRO Electronic Monitoring Requirement](#).

Location monitoring (GPS tags) are also available for children and are an option for Youth Rehabilitation Orders (YROs). The location monitoring tag monitors the child's location 24 hours a day using GPS technology. The technology allows a specific zone to be monitored to ensure the child is within the zone or does not enter the zone (restricted area). It may be used as an alternative to custody. The vulnerability of the child should always be considered both in terms of the domestic setting in which they are living and the type of crime this is trying to prevent. It may not be suitable for all children as they have to ensure the

tag is charged on a daily basis. The type of monitoring used should always be proportionate, not overly intrusive and not be used for any other purpose than monitoring the requirement. Please read the [GPS Location Monitoring guidance](#) if you are considering this.

Visit the [Youth Justice Resource Hub](#) for further information.

Most curfews will continue with the existing non-GPS Radio Frequency system which restricts the child to a single place for a fixed period, however it should be noted that GPS tags have the capacity to monitor curfew and location at the same time.

### ***How to manage the Curfew Requirement***

As the child's youth justice service worker, you will need to determine how the curfew is monitored to ensure they are abiding by the conditions, and if there are any difficulties they are addressed at an early stage.

### ***The YRO Education Requirement***

An Education Requirement is available to children up to the age of 16, or 18 if in compulsory education or training. The child must engage with approved education arrangements made by the local authority, which could be in mainstream, specialist schools or a pupil referral unit etc. The requirement can only be included if the local authority has been consulted, the Education Requirement is necessary to support the child not to offend, and arrangements exist for the child to receive full-time education.

Children should not be set up to fail if they are struggling to engage with education. Every effort should be made to explore collaboratively with the child and consider other ways in which they can be supported. If a child has a negative perception of education, enforcing attendance may be damaging. Criminalising non-attendance may undermine the attempts of professionals to engage the child.

#### **How to manage the YRO Education Requirement**

As the child's youth justice service worker, you should identify how you monitor the requirement by liaising with the school or education provider to assess the child's progress, discuss any difficulties and identify what can be done to support their participation. You should involve parents/carers, seek their views and consider whether any additional voluntary support would assist them to strengthen their child's engagement with education. You should help the child to think about how they can develop coping skills if they find attending education difficult. Positive progress and achievements should be recognised, to reinforce that these will move the child closer to their goals. If the child is struggling with attendance, you should identify what the difficulties are and how they can be resolved.

### ***The YRO Residence Requirement***

A Residence Requirement requires a child to reside with a specified person or in a specified place. The requirement can only be proposed if the child is 16 years or over at the time of conviction. The requirement may be considered when the environment the child is living in is not supportive. The residence proposed must be appropriate and suitable to be recommended to the court and the child and their parents or carers must have been fully consulted before the proposal is made. The legal parental responsibility for the child does not change.

When this requirement is under consideration, the pre-sentence report should set out relevant and comprehensive information about the child's family circumstances and living arrangements and the likely effect of the requirement on those circumstances.

### ***How to manage the YRO Residence Requirement***

You should maintain contact with the placement provider whilst this requirement is in place to ensure that the accommodation remains suitable and supportive and continues to support wellbeing and positive outcomes. You should assess whether any changes in the child's family circumstances impact on the appropriateness of the placement, its continuation or the necessity for the requirement to be removed.

The wishes, feelings and best interests of the child should be considered throughout. If the placement breaks down or the child requests alternative accommodation, you will need to explore what alternatives are available and what the implications are if there isn't one or it is felt the child should be asked to reside in the accommodation for longer than they want to.

If a placement breaks down and a suitable alternative cannot be found, the youth justice service should return to court to have the Youth Rehabilitation Order amended.

### ***The YRO Local Authority Residence Requirement***

A Local Authority Residence Requirement requires the child to stay in suitable accommodation arranged by the local authority for a specified period. The requirement may also specify who the child should not reside with during the Youth Rehabilitation Order. The child and their parents or carers should be fully consulted before the proposal is made. The requirement may be considered when the environment the child is living in is not supportive. It cannot be imposed unless the child was legally represented when the court was considering the requirement or, if they were not represented, they had been offered representation and subsequently refused to apply for it.

The period for which the child must reside in suitable accommodation cannot:

- exceed six months
- include any period after the child has reached 18 years of age

The local authority in which the child is to reside will be specified in the order, as well as the local authority responsible for accommodating the child and planning their care (if they are already a looked after child) or the local authority responsible for the requirement identifies a placement outside of the home area.

Children accommodated under this provision are subject to the general provisions of [section 23 of the Children Act 1989](#) and [section 120 of the Social Services and Well-being \(Wales\) Act 2014](#). This places a duty on the local authority to assess the child's needs, plan and review the child's care and accommodate the child for the duration of the order.

### ***How to manage the YRO Local Authority Residence Requirement***

You should work closely with the local authority to ensure the accommodation provided meets the needs of the child, by ensuring it is suitable, supportive and increases positive outcomes. You should liaise with the local authority regarding the care planning arrangements for the child so that the conditions surrounding this requirement are understood and information is shared between relevant agencies about the arrangements for the child and their circumstances. If the placement breaks down and a suitable alternative cannot be found, you may have to return to court to have the YRO amended.

### ***The YRO Drug Treatment Requirement***

A Drug Treatment Requirement requires the child to attend treatment by a qualified person to reduce dependence on and misuse of drugs. This could be with a youth justice service based substance misuse worker, a specialist substance misuse voluntary sector organisation or other organisation with appropriate expertise. The child must have expressed a willingness to comply with the requirement for it to be

imposed. This is different from consent to treatment. The court may not impose this order unless it is satisfied:

- the child requires treatment
- arrangements for implementing the requirement are in place
- the treatment provider has agreed they will provide the treatment (prior to the order being made)
- the child has expressed their willingness to engage

### ***How to manage the YRO Drug Treatment Requirement***

At the outset of the order you should explain to the child what will be involved, the duration of involvement, who they will be working with and how it fits with plans for their future.

You should regularly review and assess with the child and treatment provider how the child is progressing and whether the treatment is assisting them.

Lack of consent to undertake a particular form of drug treatment once the requirement is in place, does not in itself constitute an unwillingness to comply with the requirement and is not a breach, if refusal is reasonable.

If the child withdraws their willingness to engage, you should return the case to court for the court to amend or revoke the requirement.

### ***The YRO Drug Testing Requirement***

A Drug Testing Requirement requires the child to provide samples as required to establish if they have taken drugs. This requirement can only be used:

- alongside a Drug Treatment Requirement
- when the child has expressed a willingness to comply
- there are suitable arrangements for undertaking the testing in the local area

Advice should always be taken from a mental health professional in determining whether it is an appropriate option.

The YRO must specify for each month of the requirement the minimum number of occasions on which samples are to be provided by the child. It may specify times and circumstances in which the responsible officer or treatment provider may require samples to be provided and the descriptions of the samples which may be required.

### ***How to manage the YRO Drug Testing Requirement***

You should explain to the child the purpose of the testing is to ascertain whether they are using substances during the period they are in receipt of a Drug Treatment Requirement, when the tests will be carried out and the way in which this will be done.

You should establish with the drug testing provider the number of occasions per month on which samples are to be provided by the child and ensure that the child is clear about the expectations and what they need to prepare for.

The testing may be undertaken by the substance misuse worker in the youth justice service if they have the expertise to do this or through arrangements with external agencies including the National Probation Service or other specialist providers.

You should maintain contact with the provider to ensure the tests are being undertaken, how they inform the Drug Treatment Requirement and how the child is progressing.

If the child fails or refuses to take the test, the reasons for this should be explored with them and every effort made to encourage them to engage to help them to lead a healthy lifestyle.

The test should not be a measure of abstinence merely an indicator of progress. Failing the Drug Testing Requirement is not a breach.

### ***The YRO Mental Health Treatment Requirement***

A Mental Health Treatment Requirement requires the child to be treated or directed by a registered medical practitioner or registered psychologist, with the aim of improving their mental health. The treatment specified in the order could be carried out by an appropriately qualified health worker who is part of the youth justice service or by the appropriate health service e.g. Child and Adolescent Mental Health Services, and must be one of the following:

1. Treatment as a resident patient in an independent hospital or care home within the meaning of the Care Standards Act 2000 or a hospital within the meaning of the Mental Health Act 1983, but not in a hospital where high psychiatric services within the meaning of the Act are provided.
2. Treatment as a non-resident at the institution or place specified in the order.
3. Treatment by or under the supervision of a registered medical practitioner and/or a chartered psychologist as specified in the order.

The order must not go further to specify the nature of the treatment.

A court may not attach a Mental Health Treatment Requirement to a Youth Rehabilitation Order unless:

- the court is satisfied on the evidence of a registered medical practitioner approved under [section 12 of the Mental Health Act 1983](#), that the mental condition of the child requires it
- the court is satisfied that arrangements can or have been made to treat the child, including reception of the child
- the child has expressed a willingness to comply

This requirement does not constitute admittance under the Mental Health Act 1983 and children cannot be compulsorily treated under the provisions of that Act. Willingness to comply and consent to treatment are two separate issues.

### ***How to manage the YRO Mental Health Requirement***

As the child's YJS worker, you should regularly liaise with the mental health treatment provider and share information which may be relevant to the provider's assessment of the child and their needs. At the outset of the order you should explain to the child what this requirement means. However, it would be good practice to revisit consent and ensure that they (and their family/carers) are aware that this is not compulsory treatment under the Mental Health Act 1983.

You should review and assess with the child and treatment provider how the child is progressing and whether the treatment is assisting them to improve their mental and emotional well-being.

A lack of consent to a particular form of treatment being provided once the requirement is in place, does not in itself constitute an unwillingness to comply with the requirement and is not a breach.

If the child withdraws their willingness to engage, you should return the case to court for the court to amend or revoke the requirement.

### ***The YRO Intoxicating Substance Treatment Requirement***

The Intoxicating Substance Treatment Requirement requires the child to attend treatment to reduce dependency on alcohol or another substance. Arrangements for the treatment must be made before being specified in the Youth Rehabilitation Order. The child must indicate their willingness to engage. All other options should be explored and exhausted before this is considered as a formal requirement. The court must be satisfied that the extent of the child's dependency makes this requirement necessary.

### ***How to manage the YRO Intoxicating Substance Treatment Requirement***

This requirement may be delivered by the youth justice service's substance misuse worker if they have the appropriate expertise or through arrangements with an external specialist provider.

At the outset of the order you should explain to the child what this requirement involves and the duration of involvement. You should review and assess with the child and treatment provider how the child is progressing and whether the treatment is assisting them to stop or reduce their use of substances.

A lack of consent to a particular form of treatment being provided once the requirement is in place, does not in itself constitute an unwillingness to comply with the requirement and is not a breach.

If the child withdraws their willingness to engage, you should return the case to court for the court to amend or revoke the requirement.

### ***The YRO Exclusion Requirement***

The Exclusion Requirement prohibits the child from going into a specified area for a specified time period. The specified period must not be longer than three months. The requirement may be appropriate where the child's offending relates to a particular area or premises. The prohibited area should be one that is directly associated with their offending. For example, it would not be appropriate to restrict from an entire whole local authority area, or a very wide geographical locality such as the whole of the M25 area.

In assessing whether the requirement is appropriate, careful consideration should be given to ensuring it is in the best interests of the child, takes into account their vulnerability if movement is restricted and whether it will reduce the contact they have with their support network. You should also check whether it is likely to have any impact on other activities and requirements they are being asked to fulfil so there is no conflict.

You should consider the child's ability to comprehend what exclusion means and whether they would need any support to maintain the requirement. You should explain the exclusion area to the child by giving them a marked map which clearly indicates where they should not go and why. If they are unable to understand a map you should find an appropriate way of explaining what is required and check that they understand. Families, carers and others supporting the child should be informed of the exclusion area and be consulted about how they can support the child to comply.

If an Electronic Monitoring requirement is to be attached or a GPS tag please see [The YRO Electronic Monitoring Requirement](#).

Location monitoring (GPS tags) are also available for children and are an option for Youth Rehabilitation Orders. The location monitoring tag monitors the child's location 24 hours a day using GPS technology. The technology allows a specific zone to be monitored to ensure the child is within the zone or does not enter

the zone (restricted area). It should only be used in exceptional cases, as this is a highly restrictive measure. The vulnerability of the child should always be considered both in terms of the domestic setting in which they are living and the type of crime this is trying to prevent. It may not be suitable for all children as they have to ensure the tag is charged on a daily basis. The type of monitoring used should always be proportionate and not be used for any other purpose than monitoring the requirement. Please read the [GPS Location Monitoring guidance](#) if you are considering this.

Further information on location monitoring is on the [Youth Justice Resource Hub](#).

### ***How to manage the YRO Exclusion Requirement***

Once the order has been made you should revisit what the Exclusion Requirement covers with the child and their parents/carers to reiterate what is required and to check they are clear about which premises/localities they should not enter. If the child was given a map or any materials illustrating where they should not go, it may be helpful to go over this again to check whether any difficulties are anticipated, if there are any concerns and to advise the child that if anything changes which may make the exclusion requirement difficult to comply with they should let you know.

You should also check whether the Exclusion Requirement is likely to have any impact on other activities and requirements the child is being asked to undertake as part of their Youth Rehabilitation Order. You should do this as supervision plans are developed, so there is no conflict and the expectations on the child remain realistic and proportionate.

### ***The YRO Electronic Monitoring Requirement***

The Electronic Monitoring Requirement may be attached to a Curfew Requirement and an Exclusion Requirement or as a standalone requirement where assessed necessary. The AssetPlus assessment should be used to determine whether the child is able to manage the restrictions of liberty this requirement imposes and how it will support the Curfew or Exclusion Requirements.

If electronic monitoring is to be used to support a curfew, the suitability of the address should be assessed and discussions held with the parent/carer, local authority or other accommodation provider, depending on where the child is living, to gain their consent to the installation of the monitoring equipment. If the child is looked after you should liaise with their social worker.

It should be noted that the court must also impose an Electronic Monitoring Requirement unless it believes it is inappropriate in the circumstances of the case. However, in putting this recommendation forward you should ensure that it is a proportionate response to the child's behaviour – usually only as an alternative to custody. Care should be taken to ensure the requirement is not used for children who are vulnerable as a means of monitoring their whereabouts in place of ensuring they get the services they need.

For further information on the use of electronic monitoring for cases involving curfew:

[The joint protocol between youth justice services and electronic monitoring providers,](#)

Location monitoring (GPS tags) is also available for children and is an option for YROs. The location monitoring tag monitors the child's location 24 hours a day using GPS technology. The technology allows a specific zone to be monitored to ensure the child is within the zone or does not enter the zone (restricted area). It should be used to help support the child in the community and meet the requirements of their court order. The vulnerability of the child should always be considered both in terms of the domestic setting in which they are living and the type of crime that this is trying to prevent. It may not be suitable for all children as they have to ensure that the tag is charged on a daily basis. The type of monitoring used

should always be proportionate, not overly intrusive and not be used for any other purpose than monitoring the requirement.

Please read the [GPS Location Monitoring guidance](#) if you are considering this.

For further information on location monitoring:

[The Youth Justice Resource Hub](#) and [GPS location monitoring](#)

### ***How to manage the YRO Electronic Monitoring Requirement***

If the Electronic Monitoring Requirement and a Curfew or Exclusion Zone Requirement are the only requirements attached to the Youth Rehabilitation Order (YRO), it is the electronic monitoring service which is responsible for almost every aspect of the order and not the youth justice service (YJS). The exceptions to this are applications to vary, revoke or breach an order, which are the responsibility of the YJS. The YJS's role in managing the YRO is to ensure there are arrangements in place for consistent communication with the agency supplying the monitoring equipment so that any concerns or breaches are promptly passed on and dealt with.

AssetPlus assessments should be used to determine whether the child is able to manage the restriction of liberty this requirement entails. However, there may be occasions where an assessment has not been completed, but the court nevertheless imposes the Electronic Monitoring Requirement. If this occurs, it is good practice to complete the assessment post sentence.

After sentencing you should contact the electronic monitoring service within one working day. You should provide them with the name of the YJS worker who should be contacted if the electronic monitoring service seeks a variation, revocation or breach of the order. You may use the [Supervising Officer contact details form](#) to convey this information.

Electronic monitoring services are responsible for:

- fitting electronic monitoring devices (tags)
- monitoring engagement and passing information the YJS
- issuing warning letters

It is good practice (but not a requirement of the order) for YJSs to develop locally agreed procedures for allocating a worker to support the child on a voluntary basis and to liaise with the electronic monitoring service. This may help to reduce the likelihood of avoidable violations occurring, provide the child with a point of contact and alert the electronic monitoring service to any change in the child's circumstances that it needs to consider. However, it does not transfer any responsibilities from the electronic monitoring service to the YJS.

### ***What to do when a child breaches electronic monitoring***

The electronic monitoring service should inform the child's youth justice service (YJS) worker when a child does not comply with the Electronic Monitoring Requirement. The child's YJS worker should then investigate with the child, identify any barriers and how these could be overcome. Every effort should be made to support the child to meet the requirement.

On the rare occasions when enforcement action is taken, it is the responsibility of the electronic monitoring service to:

- lay information before the court
- book a hearing date
- prepare a breach pack for the YJS and provide witnesses where required

Only the electronic monitoring service is able to withdraw the case prior to court.

On receipt of information that court action is required, YJSs are responsible for presenting the case to court, appointing counsel where necessary and providing any subsequent advice to the court, and to the child and their family. YJSs may also withdraw cases at court where the interests of justice are served.

YJSs remain responsible for:

- informing electronic monitoring services of adjournments
- trial dates
- the eventual outcome of proceedings

The [joint protocol between YJSs and electronic monitoring providers](#), provides further information on the electronic monitoring of children in the youth justice system.

### ***The YRO Prohibited Activity Requirement***

The Prohibited Activity Requirement restricts the child from undertaking activity on the day or days specified and during a specified period of time. The proposed restriction should be proportionate to the behaviour it is seeking to prevent. Prohibited activity can include not contacting certain people.

### ***How to manage the YRO Prohibited Activity Requirement***

Once the order has been made you should revisit what the Prohibited Activity Requirement covers with the child and their parents/carers to ensure they are clear about what they should not do. You should make the child aware the requirement will be monitored and advise them if they are having any difficulty, they should discuss it with you.

### ***The YRO Unpaid Work Requirement***

The Unpaid Work Requirement is available for 16 and 17 at the time of their conviction.

The requirement can be for a minimum of 40 hours to a maximum of 240 hours over a 12-month period. The hours must be completed within 12 months of the sentence date. There are no legislative conditions around the specific number of hours of unpaid work that a child must complete per day, however it is expected it would be a minimum of four hours a day or 16 hours over seven days where appropriate. The requirement remains in place until the child has completed the number of hours specified in the order.

Children receiving this requirement are usually not in employment, training or education. If they are, careful consideration needs to be given as to why the requirement is appropriate.

The AssetPlus assessment should inform whether a child should be recommended for this requirement. Consideration should be given to:

- the needs of the child, their maturity and ability to engage in community-based activity
- their current education, training and employment (ETE) status and attendance and engagement with ETE

- the scope for the Unpaid Work Requirement for the child to develop skills, gain a qualification and increase employability
- the child's health and wellbeing and their ability to undertake reparation to the community which usually involves some form of physical activity
- an assessment of the safety and wellbeing of the child or others, as the requirement is generally group work based, with the provider delivering activities to children referred from different youth justice services (YJSs) and/or different geographical areas within the same YJS to ensure children can safely mix together
- the child's own views on whether they can undertake and complete the number of hours successfully, and the YJSs assessment of any factors that would prevent them from doing so or other restrictions and conditions on their order such as electronic tagging that might impact on their ability to attend the designated location
- what support the child would need to successfully complete the requirement
- whether the child can integrate and feel safe and secure in a group, particularly with people they do not know
- how the requirement can support desistance
- how the requirement can contribute to the development of vocational and employability skills

The court must be satisfied that provision is available in the local area before imposing the requirement.

### ***How to manage the YRO Unpaid Work Requirement***

Following sentence, the expectations and requirements should be fully explained to the child (and their parents/carers) to check their understanding and what will happen if they have difficulty in carrying out the requirement. They should be provided with information about where to attend, what they will be doing and the dates and times/schedule of attendance. This should ensure they are able to get to and from the required location at the appointed times. The child's engagement and progress with unpaid work should be checked at regular agreed intervals. They should be advised of who they can talk to should they have any problems and how to contact them.

There is no prescribed activity which constitutes unpaid work. The options should be fully discussed and explored with the child. They should be encouraged to share their views about what activity to undertake. Unpaid work should support positive child outcomes by providing the opportunity for learning and development. Ideally, it should assist the child to acquire skills, qualifications and experience. This is in line with routes to the child's future pro-social self and will directly aid future employability.

You should be familiar with the local arrangements for making referrals to unpaid work providers in your area and the nature and type of unpaid work provided. There is an expectation that the provider will undertake an assessment of the child before any work commences and the requirement should commence within five days of sentence. You should ensure that you are aware of the child's progress throughout and if there are any difficulties discuss them with the child and provider. The work must not be undertaken in any way which could cause stigma or humiliation, such as wearing a high visibility vest.

The youth justice service is responsible for addressing any breach of this requirement. If the provider identifies any additional needs of the child which cannot be met, they should discuss them with the child's case manager who should then decide whether the requirement is still suitable.

As case manager, you should also consider referring the child to the education officer in the team for further advice and guidance on education, training and employment opportunities and/or careers advice. For further information on unpaid work, please read the model on the [Youth Justice Resource Hub](#)

### **Intensive Supervision and Surveillance**

Intensive Supervision and Surveillance (ISS) is a direct alternative to custody. It should always be considered as a proposal in a pre-sentence report for children who are at risk of custody. However, it may not always be the most suitable option. Factors you may want to consider when assessing a child for ISS are:

1. Would ISS be in the best interests of children?
2. Would ISS recognise their particular needs and capabilities?
3. Will the work delivered be child focused and developmentally informed?
4. Have you considered all other community based orders as alternative means to protect the public from harm?

You should always consider whether you can propose an alternative option using a combination of the other requirements that can be attached to a Youth Rehabilitation Order (YRO). ISS includes an expectation of a high level of appointments weekly, so your assessment should consider whether the child can manage the amount of contact required to ensure they are not set up to fail. ISS is accompanied by an electronically monitored curfew, which is the element described as 'surveillance'.

All youth justice services (YJSs) must ensure that they have the capability and capacity to propose and deliver ISS and provide the court with credible alternatives to custody. ISS does not have to be delivered by dedicated ISS workers, but can be delivered with contributions from various workers within and external to the YJS.

ISS is imposed for between 90 and 180 days. It should also be noted that ISS can also be a condition of bail or as a licence condition of a detention and training order. A YRO with ISS must include a Supervision Requirement, Curfew Requirement and Electronic Monitoring Requirement, but can also include any other requirement.

An ISS programme will usually include many of the following:

1. Education, training or employment, which should align to any education or training the child is undertaking prior to the order; and is likely to be the main element of the programme. If a child is not in any education or training this does not preclude ISS but it may be necessary to tailor expectations until provision is in place.
2. Restorative work, where the child has the maturity and cognitive ability to engage with this type of activity. Please see [restorative approaches and how to use them](#) for more detail
3. Identifying activities with the child that will support skills and strengths and encourage positive outcomes, leading to desistance.
4. Sessions with parents/carers to ensure they understand the requirement of ISS and what they can do to support the child throughout.

There may be variations in how each of the elements are delivered case by case and YJS by YJS. As resources and services vary considerably from area to area and programmes should be tailored to the

needs of each individual child. The key consideration is to ensure the court will have confidence in what is being proposed.

### ***How to manage Intensive Supervision and Surveillance***

Intensive Supervision and Surveillance (ISS) should be a positive measure to address complex factors that are barriers to positive child outcomes. ISS begins as a very intensive package of support, with a high level of contact and structured activity for the child, which tapers as their position stabilises. The frequency of contact at the start, and the extent of the tapering, should be decided by professional assessment determined by the circumstances of each individual child. If the child is struggling to cope you should assess whether it is the right response and what could be provided in its place. As this is an alternative to custody, consideration should also be given to maintaining the confidence of the court and the integrity of the order. Decisions should be defensible, discussed and agreed with a manager and the reasons for substantive changes clearly recorded.

The quality of contact and engagement with the child will be important because of the intense nature of the order. Children subject to this requirement are likely to need significant practical and emotional support and building a constructive and trusting relationship with them should be a key part of the delivery of the order. ISS is a complex intervention potentially requiring the involvement of a range of individuals and organisations. YJS workers should consider the impact for children who have experienced trauma and those who may be distrustful of professional involvement as in these instances limiting the numbers of workers they are involved with may be important. Progress should be kept under regular review, approaches re-assessed and plans adjusted to reflect the progress the child is making.

### ***Intensive Fostering***

Intensive Fostering can only be proposed when the court is dealing with a child for an offence requiring imprisonment as it is a direct alternative to custody. Before being proposed the child, their parent/carer and the local authority must be consulted. In imposing this condition, the court must be satisfied that:

- it is dealing with the child for an offence that is punishable with imprisonment
- the offence or combination of offences, is so serious that if a Youth Rehabilitation Order (YRO) with Intensive Fostering was not implemented, a custodial sentence would be appropriate
- If the child was under 15 years of age at the time of conviction, the court must be of the opinion that they are a 'persistent offender' (as defined by legislation)

For the definition of a 'persistent offender' see [section 6.4 Sentencing Children and Young People, Sentencing Guidelines Council \(2017\)](#).

A YRO with Intensive Fostering cannot be imposed unless there is identified provision. The court may not order a YRO with Intensive Fostering unless the child is legally represented or, if not represented, they must have been offered such representation and subsequently refused or failed to apply for it.

A YRO with Intensive Fostering must also impose a Supervision Requirement. Other requirements can also be added, but the order will continue to be referred to as a YRO with Intensive Fostering.

The requirement must end no later than 12 months from when the requirement first has effect and must not include any period beyond the child's 18th birthday.

### ***How to manage Intensive Fostering***

If Intensive Fostering is imposed the local authority will place the child with a fostering provider. You should work closely with the local authority to ensure the accommodation meets the needs of the child and they will receive sufficient support to improve child outcomes, leading to increased chances of desistance.

You should liaise with the local authority regarding any plans which assess the child's needs, which review their care arrangements and plans for them as a [child looked-after](#). This is to ensure that the conditions surrounding the requirement are understood and information is shared between relevant agencies about the arrangements for the child and their circumstances which will include clarifying the role of the youth justice service, children's services and the fostering provider in supporting the child.

### ***How to ensure the report is high quality***

The youth justice service (YJS) should have quality assurance processes in place which review all reports before they are presented to the court or a Referral Order Panel. This should include a process for management oversight and sign-off. The process can assist practitioners to improve their report writing skills. It also ensures that what is presented to the court sets out the most suitable way of dealing with the child, is in their best interests and interventions proposed will promote positive child outcomes, and support desistance.

In quality assuring reports, consideration should be given to whether the report is:

1. **Balanced:** creates a constructive narrative for developing the child's pro-social identity and future.
2. **Impartial:** based on information from a range of sources including the child's views, Crown Prosecution Service information, assessment by the YJS worker and the views of any victim/s.
3. **Timely:** produced in line with the timescales set out in guidance, or those agreed locally with the court.
4. **Focussed:** analytical rather than descriptive, following a logical structure, free from discriminatory language and stereotypes: reports must be sensitive to factors of difference, and treat children with fairness, dignity and respect.
5. **Factually accurate:** information in reports must be verified.
6. **Promotes fairness:** ensure that diverse needs are met in plans and proposals.
7. **Constructive:** contain a proposal that is clear to the court with a well-argued rationale for the sentence indicated.
8. **Understandable:** to the child and parents/carers: use plain language, jargon and acronym free. Children and their parents/carers and legal representatives must have the opportunity to read the report prior to the court or panel, in translation if needed.

The YJS may also want to consider other processes for monitoring the quality of their court work.

The [standards for children in the youth justice system](#) provides a framework for this.

The YJS should also monitor court outcomes and sentencing decisions, the effectiveness of their court reports and outcomes in relation to ethnicity to identify disproportionality to be able to address it.

For further information see the [ways to improve quality](#) section of this guidance.

### ***How to advise the court if it has not been possible to prepare a pre-sentence report***

If you have been unable to prepare a pre-sentence report as requested, you should provide the court with written reasons explaining why it was not completed. The likely reasons for this are:

1. You have been unable to engage the child. If you have not been able to engage despite every effort to do so, the court should be informed in writing. The court may impose a bail condition requiring the child to co-operate with the preparation of a pre-sentence report. You should consider ways to support engagement, such as a change of worker.
2. There are exceptional circumstances. In very exceptional situations, such as extensive and prolonged staff sickness and/or significant disruption to normal working arrangements, where it has been impossible to provide a pre-sentence report, the court should be informed in advance by a letter from the youth justice service (YJS) manager. It should be noted that courts have the authority to issue a Wasted Cost Order against the YJS where they consider that the failure amounts to serious misconduct.

## Section 4 - How to work in court

Information on your role in court and how to support children and their parents/carers.

### Your role in court

Court work in youth justice services (YJSs) can be provided through a designated court officer or shared between several team members. Depending on local arrangements you may be required to attend as part of your role. It is important that you are familiar with what is required, can support children and their families effectively, and confidently present reports when required to do so. Court duty involves:

- engaging with children and their parents/carers and providing information to them about the court process and what to expect
- facilitating communication between the child, their parents/carers and the court to assist them to engage in the process
- sharing information with the Crown Prosecution Service (CPS) and defence lawyers prior to the start of hearings
- providing information to courts about children known to the YJS
- providing and presenting bail and remand assessments and bail supervision and support packages
- presenting a report (e.g. pre-sentence report, stand down and breach)
- informing the Youth Custody Service of the outcomes of a case when placement in youth detention accommodation is required
- preparing documents for placement in youth detention accommodation
- ensuring the custodial warrant has been issued and is accurate prior to the child being taken to custody
- undertaking post-court administration, including recording relevant information relating to the case and its outcome, and advising the YJS of any new orders which have been issued

The relationship between the YJS and the court is an important one, the court needs to have confidence in the service it provides. This can be achieved by:

- being well prepared
- providing the court with sufficient and appropriate information to help it to make decisions
- ensuring that children and their families are well prepared and support them to present themselves positively and effectively

Discrimination and disproportionate outcomes can occur at any stage of the criminal justice system, with different groups of people receiving less favourable outcomes because of their ethnicity or for other reasons. You should be mindful of this and be clear about what you can do to ensure disproportionate outcomes do not occur and how you can address concerns if they arise.

[‘Making it Count’ in Court](#) provides further information on court practice.

### How to undertake a court duty role

Routine court duty work involves providing a service to the court, children and their parents/carers. This means attending:

- when children have been held overnight by the police to appear in court the next day (or at the first available court)

- for those who have been bailed from a previous hearing
- for children who are being sentenced
- for children brought back for breach proceedings

For scheduled returns to court you should know how to access information about who is expected to appear. To be fully prepared for court, you should have access to a final court list the day before to ensure any information which needs to be presented is available, avoiding unnecessary adjournments.

Information on listings is provided through an automated email system. In areas with a shared court, you may have a nominated lead who will receive the information and pass it on to the relevant youth justice service in the area.

You should be aware of the process for checking with the police to find out whether any child has been held overnight and charged to appear in court. This is to ensure you obtain information about their offence(s), background and circumstances, whether there are likely to be any objections to the granting of bail and what role the youth justice service can play in providing a bail supervision and support package. See [how to manage bail and remands for further information](#).

If there is a strong likelihood that the child will be remanded or sentenced to custody, you must alert the [Youth Custody Service's \(YCS\) Placement Team](#) at least 24 hours before the hearing (unless the child has been produced overnight) by sending them all the relevant assessment information and the placement information form.

If the child is remanded or sentenced to custody, you should follow the [placing young people in custody guide](#).

### **What you need to know about live links**

Video links to court can be used, at the discretion of the judge. They can only be used where the court is satisfied that it is in the interests of justice, having considered representations from parties to the proceedings and any guidance from the Lord Chief Justice.

Where the defendant is a child, there is an additional requirement that the youth justice service must be given the opportunity to make representations before the direction is made. This means that you can provide additional safeguards to ensure the interests of children are protected. You should assist the court to determine whether the child's ability to understand the proceedings will be hindered by the video hearing making a live hearing desirable; and to balance that factor against the stress and inconvenience of the journey to court.

### **How to present yourself in court**

If undertaking court duty it is useful to understand the roles of the:

- Crown Prosecution Service
- judge
- jury
- usher
- court clerk
- barristers
- solicitors
- magistrates

You should also have knowledge of the local court etiquette. Prior to undertaking court duty for the first time, it is useful to shadow a more experienced court officer to learn about the environment and processes. When working in court, you are a professional providing a statutory service and so should:

- dress smartly (in professional clothing)
- wear identification to ensure that your role is clear to other staff and the public
- arrive punctually with sufficient time to prepare for court; introduce yourself to the court clerk and give your name so that you can be formally addressed by the magistrates.
- ensure that all relevant information prepared for court by your team is available and that relevant parties have received it
- address magistrates and district judges as “Madam” or “Sir”
- address a Crown Court judge (except in the Old Bailey) as “Your Honour”
- address a High Court judge, any judge in the Central Criminal Court (Old Bailey), a Court of Appeal or Supreme Court judge as “my Lady” or “my Lord”
- when you talk to the Bench or when they talk to you, stand up and talk as clearly as possible - it might be you are told you can remain seated, but it is important to show respect for the formality of the process
- if you have something you would like to say once the hearing has started, get the court clerk’s attention before standing or speaking and you will be invited to comment
- if you need to ‘respectfully’ correct something which you know to be wrong, indicate to the clerk that you would like to address the matter
- if during proceedings, you are unsure of something which should be factually checked to ensure that accurate information is put before the court, you can request a brief adjournment to make enquiries
- show respect for the workings of the court and the functions of the sentencers and be courteous to all concerned
- if you do not agree with any decisions do not make your feeling obvious, there are ways to challenge outside of the court arena
- be mindful of your surroundings - the relatives of a defendant and sometimes victims may be sitting in the public gallery or waiting room and care should be taken when discussing any aspect of a case outside of the court room
- mobile telephones must be silent at all times

### **How to support children, parents and carers in court**

For scheduled hearings, you should ensure that the child and their family have been contacted and reminded of the court appearance (date and time) and the importance of attending. Depending on their circumstances you may also want to tell any other significant individuals they are in contact with about the appearance e.g. their social worker, to ensure any additional support they require is provided.

Irrespective of whether the child and their parent/carers are familiar with the court process and setting, you should explain and check they understand what will happen, what is expected of them and how they should present themselves. This includes:

- being on time
- not being under the influence of alcohol or drugs
- bring their parents or carers wherever possible

Parents/carers should be encouraged to attend. If this is not possible, they should be asked to provide a statement to the court. This is to ensure their views are included and there are no negative connotations attached to their non-attendance, including a disproportionate outcome for the child who is appearing.

Youth justice services should work with defence solicitors to engage with parents to attend court where possible; or provide the court with statements or information as to why they were unable to attend. This should be done with all children; however, given the disproportionate outcomes experienced by children from Black and Mixed ethnicities and Gypsy, Roma and Traveller communities, it is of particular importance for these groups. Non-attendance at court may encourage stereotyped assumptions and unconscious bias in decision making. You should explore potential barriers that might make it more difficult for parents and carers to attend court and provide support where possible to overcome these.

Regardless of whether the child has appeared in court before or not, it is important to recognise they may be feeling apprehensive, anxious and nervous about attending and the possible outcome. Every court appearance is different and may bring its own challenges. It is important that irrespective of the reason for attending court, you are non-blaming, honest, open, empathetic and realistic about possible outcomes in your engagement with children and their parents/carers. The process of going to court can in itself have a negative and stigmatising effect, so it is important that you treat the child and parents or carers with respect and try to mitigate the impact of the experience.

You should explain that your role in court and that of others is to help them to understand what will happen and how you can support them. This includes ensuring the child and their parent/carer understands their rights to legal representation, legal aid and a duty solicitor. If they wish to engage their own defence lawyer, they should know they must make their own arrangements for this. It may also be helpful to explain who will be in the court room.

You should assist the child to put themselves across in a positive light, which may include:

- discussing court etiquette
- helping them to understand the importance of listening to what is being said
- preparing them that they may be asked questions about what has happened and their future plans

Court attendance can be an intimidating experience for children. Nervousness and stress can affect their ability to understand what is going on, to engage and comprehend the process and outcome. Explanations may help them to feel more confident and they should know that despite the formality, the court will want to hear from them in their own words.

However, you should also be able to demonstrate how the child has worked with you to develop positive plans for the future, which are collaboratively developed and based on their strengths. If there are likely to be any difficulties in the child understanding what is going on (e.g. because of speech and language problems), their defence solicitor should be made aware (see also [when a child may require an intermediary](#)). You may also wish to add an opening statement in the pre-sentence report as to how the child may present and advise the court as to how best to engage with them.

There are various resources which may be of assistance when explaining to children and their families what court appearances entail. This includes:

- [Advice to teenagers from Family Lives](#)
- [Information from the Citizen's Advice Bureau](#)
- [ChildLine](#)

- [Just for Kids Law](#)
- [The Children's Legal Centre Wales](#) - also contains advice in the form of questions and answers for children who have to go to court

### **When a child may require an intermediary**

The role of an intermediary was created by the Youth Justice and Criminal Evidence Act 1999 to assist in criminal cases involving vulnerable witnesses. Intermediaries are available to under-18s in recognition that children communicate differently to adults and may need support if they have identified difficulties.

Intermediaries are trained specialists, often speech and language therapists, who are assigned by the court to vulnerable witnesses and defendants to facilitate communication. Their role is to assist the court to maximise the chances of a fair trial. The intermediary is impartial and appointed to support the child to engage with the court process.

A child in court may require an intermediary if they have:

- communication needs
- mental health difficulties
- an Education, Health and Care Plan. (for children with special educational needs in England) and Individual Development Plan (the equivalent in Wales)

It is more common for an intermediary to be appointed to support child victims or witnesses than child defendants. However, you should raise the need for this support if you consider it may be necessary for the child to understand and meaningfully participate in their trial.

### **How to get an intermediary for a child who may require communication support**

The child's defence lawyers can make an application for an intermediary, which is decided by the judge. You can recommend to the child's defence counsel where you consider this support is necessary. The judge may decide that a mental health assessment is required to decide on the need for intermediary support. An application will be made to the Legal Aid Agency to fund the costs of the intermediary.

The application process will include an assessment of the child's needs; whether an intermediary is necessary or whether adjustments can be made to accommodate their ability to engage.

Sometimes the court may request that the youth justice service fulfil the role of supporting communication. If you consider that a specialist is required, you should make this clear to the court.

If an intermediary is appointed, the youth justice staff supporting children in court will need to work in partnership with them to support the child.

View this guide to find [HMCTS approved intermediaries](#).

The Youth Justice Legal Centre has more information about [Intermediaries For Child Defendants](#) online.

### **How to support children after their court hearing**

After the hearing, if the child has received a community order, there is basic information they should be made aware of before leaving the court. Children may find it difficult to fully process information at this stage, because they feel overwhelmed and overloaded by the process. It is also likely they will want to leave the court as quickly as possible. This can make it challenging to get detailed information across and if,

as court officer, you are facing other demands and have other children and families to support, there may be limited time. However, this is a critical time to build a relationship and avoid stigma, and it is important that where possible this is framed for the child as moving forward positively.

The following basic information should be exchanged:

- details of the first appointment with the youth justice service (YJS), when, where and who with
- ensuring the child knows how to get to the location of their first appointment (if it is to be in person) and can get there or contact details are exchanged if the first appointment is likely to be virtual/remote
- contact details for the YJS and child (and their parents/carers)
- reiterate the seriousness of the situation and the need to meet with and engage with the YJS and any other requirements of the court order (restrictions, curfews and other conditions etc)

Children who are securely remanded or receive a custodial sentence will also require attention and assistance. The level of support required is likely to depend on whether they have received a custodial sentence before or not and whether it was expected or not. They are likely to feel overwhelmed and unlikely to have processed the information fully. You should consider:

- their immediate safety and well-being
- information the secure estate needs to know on reception
- where they will be placed and how and when they will get there

Any questions, anxieties and concerns should be discussed to ensure children feel supported and understand what will happen next.

The court officer is also responsible for carrying out a post-court check with the child in the cells. The purpose is to assess the child's mood, reaction to court outcome and any self-harm or suicidal thoughts.

You should then ring the Youth Custody Service (YCS) on **0345 3636363** to book the child into a placement. You will need to have the following information:

- child's name, sex and date of birth
- the court that the child is appearing at
- offence details- including dates
- the court outcome and any future court appearances
- post court assessment information
- potential conflicts in custody information - including gangs associations or specific children the child is at risk from
- the placement recommendation and reasons for this

After you have spoken with the YCS, you must complete the 'Post-Court Report' Asset Plus stage. Once completed, you should request that a manager countersign it and send via connectivity to the YCS. You should also record any concerns on the 'Person Escort Report' for the escort service.

Once the child's placement has been confirmed you should communicate this with the child's parent/carer, and to children's services. You should make them aware of arrangements for visiting and assistance with the cost of this.

## Section 5 - Case responsibility

How to understand the implications and arrangements when working with a child from another area. It includes information on what to do when a child who is looked after is placed out of area.

### What to bear in mind when a child moves to another area

1. Children's welfare should be kept at the centre of all decision making.
2. You should always consider any public protection issues, and plan to address these.
3. Children and their parents or carers should be involved in decision making about the support they will receive, and understand the decisions made.
4. Support should be maintained throughout the process, such as any moves and changes for supervising staff members.
5. Justice services should be provided to the same standard, regardless of which local authority has responsibility or where the child lives.
6. Good communication should always be maintained between local authorities and agencies; with information shared in a consistent and timely way and accurate records kept.

This guidance should be read alongside other relevant sections of the case management guidance and the [concordat on children in custody](#).

### The difference between a home and host YJS and a designated local authority

A home youth justice service (YJS) is the one in the local authority where the child usually lives. When a case is transferred to the responsibility of a new YJS, that service becomes the home YJS.

A host YJS is the one in a local authority which provides justice services to children who don't usually live in that area. This could include:

- when the child is looked after and placed in the area
- because the child is in a temporary bail placement in the area
- when the child has just moved and the home YJS is retaining responsibility for a set period for consistency, whilst checking that the placement will become stable for permanent transfer.

A designated local authority is the one the court decides is responsible for the child. This should by default be the home YJS; and if there is a disagreement about the responsible area, the court will decide which area is responsible.

### The differences between caretaking and transfer

Caretaking is an arrangement where a host youth justice service (YJS) provides day-to-day management of a child's case, but another area retains overall case responsibility. Where a child is looked after outside of their home area, the host YJS will provide caretaking on an ongoing basis as long as the child lives there; but the home YJS remains responsible (see later sections for more detail about arrangements for children looked-after). Caretaking may also be provided on a temporary basis, for example when a child moves to stay with another parent or carer and there is an agreed period of time (usually three months) to test whether this is likely to become permanent.

Transfer is when a child moves to a new area; for example, the whole family moves to a new house. If this is a permanent move, there will be a transfer of case responsibility and the new area becomes the home YJS.

### **The arrangements for out-of-area appropriate adult services**

If a child is arrested outside of their home area, the area where the arrest happens must provide appropriate adult services. All children under 18 must receive an appropriate adult service.

The police will contact their local authority – during office hours this is usually the youth justice service (YJS), and out-of-hours the emergency duty team – to ask for an appropriate adult. If the child is from another area, the host area must provide the appropriate adult service. They should attempt, as far as possible, to get relevant information about the child from the home area and inform them promptly about what happens.

### **Children detained in police custody out of their area**

If the child is not going to be released on bail and needs to be held overnight, the police must request a transfer into local authority care under the Police and Criminal Evidence Act 1984. This is often described as ‘finding a PACE bed’. This request often happens outside of usual office hours, so may be dealt with by the local authority’s emergency duty team.

There is sometimes confusion as to whether the request being made is for a secure placement or not. Where a custody officer authorises an arrested child to be kept in police detention, the custody officer should ensure the arrested child is moved to non-secure local authority accommodation unless it is impracticable to do so (this relates to exceptional circumstances), there is an evidenced likelihood of absconding, or there is an urgent need to protect the public from very serious and imminent harm.

In the vast majority of cases, the child will be placed in a non-secure placement, which may include as appropriate:

- the family home
- for a [child looked-after](#), their usual care placement
- a relative
- an emergency foster placement
- a local authority remand bed

If the police make a request for a PACE bed, it is the responsibility of the local authority receiving the request to find a bed. Problems with availability are not an acceptable reason to refuse the request; and the police may not decide to keep the child in police custody overnight rather than accept a non-secure placement. The child must be transferred to an appropriate placement and not held in police cells.

If it is not clear which is the home area for the child, the police may contact any local authority and they are responsible for providing the placement.

For more information see [what you should do if the police are considering denying bail](#).

### **Arranging out-of-court disposals for an out-of-area child**

A child will be dealt with by the police in the area in which they are arrested and the disposal decision should remain with the police in the area where the offence took place. If this is outside the area where they usually live, the police should notify the home youth justice service (YJS) of the child’s arrest within 24 hours.

If the child lives permanently in another area, the decision for the disposal should be agreed between the arresting and home areas. The area where the offence occurred is obliged to consider the advice from the home area, ideally by involving the home area in the decision-making panel (virtually if necessary). Good communication is vital in this type of situation, to ensure that the child is not unnecessarily criminalised and gets the support they need.

If the child is looked after, living in the area but has a home youth justice service (YJS) elsewhere, the decision as to the disposal will be taken by the host YJS joint decision-making panel (the YJS in the area where the child lives which is caretaking the case), having informed and consulted with the home YJS. Interventions will be delivered by the host YJS and there should be agreement about the package to be delivered. There is not a requirement to request formal caretaking in these situations.

The outcome for the child will be recorded as an outcome for the home local authority, not the host. The child's data will be included in the statistics on first time entrants for reoffending (as appropriate) for the home area and not the host.

If a child moves part way through an out-of-court disposal which requires ongoing intervention, this should be transferred to the local YJS and formal caretaking arrangements should be requested - as per the main guidance. However, it is not uncommon for children to move frequently so there is discretion for services to continue to support children in neighbouring areas that are easily accessible.

#### **A child in court out-of-area (including Saturdays and Bank Holidays)**

When the court lists are made available (including on Saturdays and Bank Holidays), the youth justice service (YJS) court worker will check for any children attending who are from another area. If another responsible YJS is identified, the host YJS should make contact to find out whether the child is known and obtain relevant background information including recent reports and assessments.

If the home YJS knows in advance that a child is appearing in court in another area, they should inform the host YJS as early as possible, providing all relevant background information.

The home YJS may make arrangements with the host to attend and deal with the court processes for that child if the host area is not far from the home, it is possible to attend in person or virtually, or if the home YJS considers the child is best served by having their own case manager attend.

The home YJS may make arrangements with the host to attend and deal with the court processes for that child. This should always be the case if there is a likelihood of the child being remanded or if the child is charged with a serious offence.

If a home YJS cannot be identified, for example if the child has recently entered the country or does not have a fixed address, the host YJS should provide services for that child until a responsible area can be established. If there is disagreement about this, the court will appoint a local authority as the designated responsible authority. If there is any concern about the child's welfare, that the child has been trafficked, is an asylum seeker or unaccompanied child, the host area children's services department must be informed as soon as possible and action taken to safeguard the child.

For more information:

[Human Trafficking, Smuggling and Slavery - The Crown Prosecution Service Child Trafficking Advice Centre \(CTAC\) - NSPCC Learning Children's asylum claims casework guidance](#)

If a child from another area appears in court on a Saturday or Bank Holiday, the host area should attempt to contact the home area. If this is not possible, they should provide the best service they are able to and inform the home area as soon as possible on the next working day. If there is a likelihood of the child being placed into custody (youth detention accommodation), the host YJS should complete the relevant AssetPlus stage as fully as possible and send it to the Youth Custody Service, to ensure that the child is placed appropriately. On the next working day, the home YJS should then send further background information on that child to the [Youth Custody Service's Placement Team](#).

### **When a child is given bail out-of-area**

The host YJS must contact the home YJS to check proposed bail addresses and complete the AssetPlus bail module for court. If the address to be proposed to court is not in the home area, the area in which it is located should be consulted and agree to caretake the bail support if necessary. For short bail periods, it is preferable for the home area to continue to provide the support, including by virtual means as appropriate, for consistency for the child.

It is important to reduce the risk of a child being avoidably remanded. Host areas should therefore take every step possible to provide a suitable bail package for children whatever their home area.

### **When a child from out-of-area is remanded to local authority accommodation**

When there is a likelihood of remand, the host area must inform the home area as soon as possible so that accommodation can be identified. The home area is responsible for arranging and paying for secure escorts to transport the child to the placement. The host YJS must ensure that an appropriate person stays with the child until the secure escort arrives and handover has taken place. Arrangements should then be agreed as to which area is best placed to support the child during the remand period, with the child's best interests as a central concern.

### **When a child from out-of-area goes into youth detention accommodation**

If the child has had previous involvement with youth justice services (YJS), the home YJS is responsible for completing the placement documents and sending them securely to the Youth Custody Service's Placement Team. The host YJS in court should contribute current information about the child's safety, wellbeing and any concerns about how they present.

If the child is not previously known to the home YJS or one cannot be identified, the host YJS should complete the placement documents to the best of their ability, noting gaps in their knowledge of the child, and send a copy to the home area once this has been established.

If the child is remanded into youth detention accommodation, the home YJS has responsibility for providing services, and also for paying the cost of the remand. If the designated local authority is amended during the remand period, the new home area can be retrospectively charged for the full cost.

If a child who is looked after is appearing in court and there is a risk of remand or custodial sentence, the host YJS should inform the home YJS and ensure they can contribute to proposals and planning. The home YJS should send any relevant documents in preparation, and the host YJS will inform the home as soon as possible of the outcome. The home YJS is then responsible for reviews and resettlement planning.

### **Pre-sentence report responsibility for children looked-after**

In general, the home youth justice service (YJS) is responsible for writing reports for the child; however where it is agreed that the host YJS has more up-to-date information and it is in the best interests of the child, arrangements may be made for the host area to contribute or complete the report.

## **The arrangements for a child looked-after receiving a Referral Order**

The Referral Order will specify the youth justice service (YJS) responsible for implementing the order. This includes providing the panels and day-to-day support for the child. For a [child who is looked after](#), this will usually be the host YJS, as the home area may not have had any prior contact with the child. The home area will contribute as requested to the panel report and other assessments; and the host YJS will keep the home area informed about progress and outcomes. The host YJS will be responsible for engagement and any breach action to be taken. If the child goes back to court for a further offence, the home YJS will complete the pre-sentence report, using the information provided by the host YJS assessments and records.

## **What happens if a child on an order moves to Scotland or Northern Ireland**

If a child is arrested and taken to court in Scotland or Northern Ireland, that court has jurisdiction. However, this poses difficulties as to whether the sentence is enforceable in England or Wales, so referring the child's case back to court in the home area is preferable for the interests of justice.

Referral Orders are only available in England and Wales and cannot be transferred to Scotland or Northern Ireland. If a child on a Referral Order is moving to Scotland or Northern Ireland, the order should be taken back to court to be revoked. The child should attend, as the court can then choose to give an alternative sentence in line with what would have been available at the time. However, progress on the Referral Order can be provided as an argument for simple revocation.

A child on a Youth Rehabilitation Order (YRO) who moves to Northern Ireland can have the order transferred there, if certain conditions apply:

- the number of hours, days and months attached to any Requirement are no greater than the equivalent amount available in Northern Ireland
- arrangements can be made by the Probation Board for Northern Ireland to manage the case
- arrangements can be made to deliver the Requirements attached to the YRO

There is no equivalent power to transfer YROs to Scotland. Bordering areas such as Northumberland and Cumbria have made local arrangements for cross border working. Requirements such as 'curfew', 'residence' or 'local authority residence' need to be revoked for these arrangements to be effective.

## **Disagreement about case responsibility**

Disputes about case responsibility should be resolved as quickly as possible and a consistent service for the child maintained while this is taking place. Disagreements should be referred in the first instance to the youth justice service (YJS) or operational manager; then Head of Service. If this does not resolve the matter it should be escalated to the YJS Management Board Chair and Director of Children's Services. During this time the host YJS should continue to provide services without this influencing the final decision and the welfare of the child should be kept as a central consideration.

## Section 6 - How to manage bail and remands

Information on what happens when a child is arrested, including advice and what to consider at the police station, appropriate adults and when a child appears in court.

### Bail and remand services

Bail and remand processes start in the police station when a child is arrested. Following interview, the police will decide how to dispose of the case, which includes:

- taking no further action
- releasing under investigation
- referring the child for an out-of-court disposal
- bailing, or detaining them for the next available court
- charge

Bail and remand services in court should:

- identify children who could be released on bail with support (if other bail options and conditions are not appropriate)
- support children who are released on bail, or who are remanded prior to sentencing

This can be a very stressful time for children and their families, as it can be a daunting experience to appear in formal proceedings irrespective of any prior involvement in the system or attendance at court. Youth justice services (YJSs) should offer support and advice to children and their families; and have a statutory duty (under the Crime and Disorder Act 1998) to offer bail and remand services which are bespoke to the child's individual circumstances and objections to bail. This also provides the opportunity to establish relationships with children who may later receive a court order.

Bail and remand services should ensure that children:

- are detained by police for the minimum necessary time
- are not held in a police cell overnight unnecessarily
- are not subject to unnecessary or inappropriate police bail
- attend court as required
- understand the requirements of court bail, any conditions attached and what is expected of them if they receive a bail supervision and support condition
- have maximum access to community support which are credible to the court, so that children are only remanded in custody where the case meets the tests set out in the [The Police, Crime, Sentencing and Courts Act 2022](#)
- are supported to reduce the likelihood of offending on bail and future attendance at court

Children from some ethnicities, particularly those that are Black, Mixed, Gypsy, Roma and Traveller as well as children looked-after are significantly overrepresented amongst those remanded into custody. Research on remand and sentencing decisions has shown that Black children receive harsher sentences for comparable offences than White children. When remanded into custody, Black children are more likely than White children to go on to receive a custodial sentence and you have a role in challenging this disproportionality.

You should regularly review and analyse data on the children remanded in your area by ethnicity and whether they are known to children's services. You should then report this to court user groups. If there is an overrepresentation of any group in your area, you should discuss it at your YJS management board and set in place measures to reduce it.

### **Appropriate adults**

Local authorities have a [statutory duty](#) to coordinate appropriate adult services. This applies:

- at all times, in and outside normal working hours, including evenings, overnight, weekends and bank holidays
- to children from the local authority's area, and to children who are from outside of their home area who are interviewed by local police

The appropriate adult role was created by the [Police and Criminal Evidence Act 1984](#) and its associated [codes of practice](#) known collectively as 'PACE'. PACE sets out the powers and duties of the police, the rights of people detained in a police station or attending a voluntary interview, and the role and function of the appropriate adult.

When the police interview a child (under 18 years of age) at a police station they must arrange an appropriate adult. Anyone who appears to be under 18 years where there is no other evidence to suggest otherwise, must be treated as a child.

[PACE Code C 1.7](#) defines who may act as an appropriate adult. They can be a:

- parent
- guardian
- representative of the organisation responsible for the child's care
- social worker
- responsible person aged 18 years or over

An appropriate adult may not be a police officer or other police employee. Appropriate adults are not subject to police vetting, but enhanced DBS checks should be undertaken for appropriate adults working with children. The appropriate adult should be someone in whom the child can have confidence; and who will advise them effectively. A person cannot be the appropriate adult if they might be a suspect, victim, witness or otherwise involved in the investigation, or have received an admission of guilt prior to attending. An estranged parent to whom the child objects should not be the appropriate adult.

The police should in the first instance contact the parent/carer and ask them to attend the police station. The appropriate adult role can be challenging for parents/carers, and explaining the role is a police responsibility. However, the youth justice service (YJS) may contact parents/carers to offer support in being an appropriate adult, such as by providing telephone advice or sharing this [video](#).

If it is not possible for a parent to attend, the local authority is required to provide the service. This is generally through the YJS in normal working hours and through the local authority emergency duty team outside of office hours. The youth justice service can choose how to meet its statutory duty. For example, they can provide appropriate adults function, work in partnership with emergency duty teams, commission a service, or combine approaches. Appropriate adults can be employed team members, sessional staff or volunteers, but should be trained/qualified to national standards.

The appropriate adult is required to be involved:

- when the child is informed of their rights
- whenever the child's consent is required
- during a strip or intimate search
- during the police interview
- when fingerprints or samples are taken
- when the disposal decision is being made regarding further action
- when the child takes part in identification procedures

The child also has a right to speak to their appropriate adult, in private, at any time.

Children who are detained by the police should also have a legal representative to advise and be present during the police interview. The role of the appropriate adult is distinct and different from this. The Howard League for Penal Reform and the Youth Justice Legal Centre have produced a [step-by-step guide for lawyers](#) in recognition of the particular assistance that children who are looked-after may require at the police station. The appropriate adult has the right to ask for a solicitor to attend even if the child has declined legal advice, if they consider it to be in the child's best interests.

An appropriate adult is present to ensure that:

- the child is treated in accordance with the PACE Codes of Practice
- the child's welfare is safeguarded
- the child is treated fairly
- representations can be made on the child's behalf
- communication between the child and the police is facilitated so that they understand what is happening

Appropriate adults should be prepared to advocate on the child's behalf and be proactive in their engagement with the police and the child. A key consideration will be ensuring the child is not held in custody for any longer than is necessary. The YJS should be advised if there is likely to be a denial of bail so they can assess the child's circumstances to explore what other options are available. This is particularly important if a bail address is required because the child cannot return to their usual place of residence. Local policies and procedures should be followed in this respect.

The [National Appropriate Adult Network \(NAAN\)](#) provides standards and guidance for the delivery of appropriate adult provision. NAAN also provides:

- appropriate adult training and qualifications
- professional development and networking events
- online guidance for family members, practitioners, managers and commissioners
- advice and support for appropriate adult scheme leaders

### **The difference between police bail and being released under investigation**

The police have two options when investigating a case which is still ongoing, and they need more time to carry out further enquiries to determine the outcome to:

- [release suspects on bail without charge \(pre-charge bail\)](#)
- [release under investigation](#)

## **Police bail (pre-charge bail)**

Section 50A of the Police and Criminal Evidence Act 1984 defines the conditions which must be met for police bail to be granted. The custody officer must be satisfied that releasing the child on bail is necessary and proportionate in the circumstances; and the bail must be authorised by an officer of inspector rank or above. Where police bail is granted, this will be for an initial period of 28 days to allow the police investigation time before taking a decision either to charge; or take no further action.

Under the Policing and Crime Act 2017 an extension can be agreed for up to three months if authorised by a senior officer; and for longer if approved by a magistrate's court. Children are required to return to the police station at an appointed date and time (this is described as the 'bailed to return' date).

The Policing and Crime Act 2017 introduced a presumption of release without bail unless certain [criteria](#) are met (see part four Police Powers) with the option to release under investigation instead.

Failure to return to the police station at the appointed date is a criminal offence that makes the child liable to arrest under warrant (section 46A of the Police and Criminal Evidence Act 1984).

The [Police, Crime, Sentencing and Courts Act 2022](#) further reforms pre-charge bail, including changes to the initial bail period and authorisation levels for the extension of bail periods. These are expected to come into force in October 2022.

## **Released under investigation**

Being released under investigation (RUI) is when a child is released from police custody without charge or obligation to return to the police station at any specific time. RUI is not bail, and bail conditions cannot be attached. However, the police may inform the child that inappropriate contact with anyone linked to the case, either directly or indirectly, through a third party or social media, may be separately investigated. Being RUI is very similar to being placed on unconditional police bail, but without the same obligation to return to the police station at a nominated date and time.

Children who are released under investigation should be advised by the police when the investigation has been completed; and of the outcome of the case e.g. that no further action will be taken; or they are being charged. There is no time limit within which the police must conclude their investigations in RUI cases.

In a situation where a child is already working with the youth justice service (YJS), the YJS police officer may obtain and pass on information about their bail/RUI status. You should continue to work with a child already on a diversionary programme or court order; but should not discuss any matters under investigation or any admissions.

The YJS may not know about children who have been released on pre-charge bail or under RUI unless they have acted as an appropriate adult. YJSs should consider developing a protocol with their police force to support the sharing of this information to ascertain how many children have this status in their locality because of the likely impact on future caseloads depending on the outcomes of these cases.

## **Voluntary police interviews**

A voluntary police interview is an interview which usually takes place at a police station (although other locations can be used). It is a formal conversation with the police, but the child is not under arrest. It is voluntary in terms of attendance, which is advisable as refusal could lead to arrest or later count against the individual, but the child can leave at any point during the interview once it has started.

Children should be encouraged to exercise their right to legal advice and an appropriate adult before the voluntary interview commences.

For further information go to the [Children's Legal Centre website](#) and guidance on [your rights when attending a voluntary police interview](#).

### **What you should do if the police are considering denying bail**

When the police decide to charge a child with an offence, they will decide whether they should be bailed or if the criteria for refusing bail are met. Most children are likely to be released (with or without conditions) to attend court at an appointed date and time.

The grounds for detaining children are set out in the Bail Act 1976 and section 38 of PACE 1984. Children must be released on bail unless one or more of the following exceptions apply:

- their name and address cannot be ascertained
- there are reasonable grounds for believing they will fail to appear in court (because of previous occasions of not doing so)
- there are reasonable grounds for believing detention is necessary to prevent them committing further offences (this applies to imprisonable offences only)
- there are reasonable grounds for believing detention is necessary to prevent them causing physical injury to another person or causing loss or damage to property
- there are reasonable grounds for believing they may interfere with the course of justice or investigation of offences
- detention is in the child's own interests

Conditions can be attached to police bail to prevent the child from:

- failing to surrender
- offending on bail
- interfering with prosecution witnesses or obstructing the course of justice
- or for the child's own protection

If the police are considering refusing bail, the youth justice service should consider what measures can be put in place to enable the granting of bail e.g. by obtaining a suitable bail address and/or by offering a bail supervision and support package.

### **What to do when a child is refused bail by the police and requires transfer to local authority accommodation**

Children who are denied police bail should be transferred to local authority non-secure accommodation (unless specific criteria apply which indicates the transfer should be to local authority secure accommodation, see [this guidance](#) for more information). There is a duty on the police to request local authority accommodation and likewise a duty on the local authority to provide such accommodation. Lack of availability of accommodation is not an acceptable reason to fail to meet this duty. Children should be transferred to appropriate overnight accommodation and not held in police cells; except for those detained for breach of bail or under a warrant.

The custody officer should liaise with the local authority at the earliest possible stage to request accommodation and arrange the transfer. The local authority should identify a placement considering the child's vulnerability and any risks to themselves or others. If a transfer is agreed, there should be a local

agreement on how the child is transferred to the accommodation. This responsibility may fall to the police, youth justice service (YJS) or local authority, depending on local arrangements.

The Police and Criminal Evidence Act 1984 states that transfers to local authority accommodation must take place unless it is impracticable to do so. Being impracticable has a very narrow definition: extreme weather conditions or the impossibility, despite repeated efforts, of contacting the local authority. In these rare cases, a certificate must be produced for court explaining why the transfer was impracticable. Difficulties in finding a placement, or concerns about the child's behaviour or the offence should not prevent the transfer request being made.

In most cases, the child can be accommodated in non-secure accommodation. The type provided is at the discretion of the local authority and may include a (remand) foster placement or children's home or in the care of family or friends (where appropriate).

In very exceptional circumstances, where it is decided that non-secure local authority accommodation would be inadequate to protect the public from serious harm the police can request a transfer to secure accommodation. In these instances, the local authority must satisfy itself independently from the police as to the risk of harm, and that the statutory provisions which allow placement in secure accommodation are met. The child does not become looked after.

Local protocols should be developed between the police, local authority and YJS to facilitate the transfer to children from the police station into alternative accommodation.

The All Wales Guidance for the [Appropriate Management and Transfer of Children and Young People by the Police and Local Authorities](#) provides more information on the denial of police bail and transfer to local authority secure and non-secure accommodation, as does the [Concordat on Children in Custody for England](#).

### **The options the court has for dealing with a child appearing in court before sentence**

When a child appears in court, charged with an offence, magistrates can bail or remand them on any adjournment of the hearing and are required to do so when:

- starting to deal with the offence, or at any time during the process of dealing with the offence to enable a medical examination and report to be produced
- the court commits the child for trial on indictment or to the Crown Court for sentence

The options the court will consider at each hearing are whether the child should:

- be placed on unconditional bail
- receive bail with conditions
- be remanded to local authority accommodation
- be remanded in custody

### **The criteria that needs to be satisfied for the court to consider bail**

[The Bail Act 1976](#) sets out the general right to bail. Bail enables the child to be released from court on the condition that they will return to the court at a specific future date and time. The Bail Act applies to children and adults alike. The presumption is in favour of bail unless there are certain exceptions, and the child has:

- previously not attended court for a bail hearing

- previously committed an offence on bail
- interfered with witnesses
- committed the offence(s) whilst on bail

### **Unconditional and conditional bail**

When a court is considering bail, it needs to determine whether it is unconditional or granted with conditions attached. Unconditional bail means being released from the court without any requirement other than to return to the court at an appointed date and time. Conditional bail means that requirements are attached which the child must adhere to during the bail period. These can include:

- reporting to a police station
- attending the youth justice service as part of bail supervision and support package
- a curfew (with or without electronic monitoring)
- not going to a certain place or area (a map or should be provided to the child)
- not contacting victims or witnesses (or other identified individuals)
- attending an appointment with a lawyer or representative
- attending an appointment for a pre-sentence report to be produced
- providing a surety (a specified sum of money) as a guarantee of attending court

Courts will start from the position of whether unconditional bail can be given; and will only attach conditions if there is evidence to suggest they are needed to manage any risks associated with the exceptions to bail. Conditions can be attached, varied or removed at any time during proceedings.

### **How to promote the use of bail to the courts**

The child's lawyer (defence solicitor) will make a bail application to the court; however, it is important that the youth justice service (YJS) provides as much information as they can about the child's background, circumstances and well-being to enable the granting of bail. YJSs have a duty under the Crime and Disorder Act 1998 to provide bail supervision and support and should identify how the child can be managed in the community as an alternative to a custodial remand.

Managing and minimising the use of remands is an important function for YJSs. The harmful effects of custody are well documented; the use of custody should be limited to where it is considered the only appropriate option. The default position is that every effort should be made to try to maintain children in the community. One of the considerations that courts have to make when considering bail is whether it is very likely that the child will receive a custodial sentence for the offence in question. They also have a statutory duty to consider the child's welfare needs and best interests when taking the decision.

For further information see [section 98 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012](#). YJSs should ensure they:

- identify and assess children who are likely to be denied bail
- consult with relevant partner agencies including the Crown Prosecution Service, police and children's services to understand any potential opposition to bail, and to broker suggestions to mitigate these concerns and propose a community alternative to custody which has the confidence of the court
- liaise with defence solicitors regarding initial and subsequent bail applications
- discuss the options with children and their families
- present local community-based alternatives including credible bail supervision and support packages
- provide community resources which can support alternatives to remand

- proactively seek to reduce remand periods by keeping cases under review; liaising with defence solicitors, children and their families if new information comes to light or there is a change in circumstances which could enable a bail application to be made
- ensure there is no discrimination in presenting bail packages, to prevent unnecessarily negative outcomes for children with protected characteristics and children of Black and of Mixed heritage

### **How to assess a child for a bail supervision and support package**

The starting point is to identify which children appearing in court are likely to be denied bail and undertake an assessment of their situation and circumstances. You should identify what the objections to bail are likely to be and consider how they can be addressed and managed in a bail supervision and support package which would enable bail to be granted and prevent a remand into youth detention accommodation. This will involve liaison with the police, defence solicitor and Crown Prosecution Service to understand the concerns and how they can be addressed.

The aim of information gathering, and assessment is to be able to provide the court with sufficient information on which it can make a decision. You should explore the options with the defence lawyer, child and their family to agree what will be put forward to the court to ensure they understand the importance of engaging with the youth justice service (YJS) and the bail conditions which may be imposed.

The Bail and Remand section of AssetPlus helps you make an assessment to respond to objections to bail and to recommend the most suitable bail supervision and support package. Due to time constraints at court, the assessment for bail needs to focus on key areas which can inform the bail decision. You should check whether the child is known to the YJS and what information case records hold about them. This might include previous responses to bail and engagement with the YJS. For example:

1. If the child is previously known, you should use information from past assessments, provided they are relatively current. You should be aware of any significant changes in circumstances which might be relevant.
2. If the child is from another area, you should make every effort to liaise with that area and ensure relevant information is provided to the court. See the section on [case responsibility](#) for more details.
3. You should be aware of any previous responses to bail as they may be an indicator of engagement with bail conditions. Any previous lack of engagement should be placed in context, as past problems are not necessarily an indicator of the child's current attitude or future behaviour.
4. You should investigate the child's living arrangements and whether a bail address may be required. The child's situation may change because of the location in which the offence was committed. For example, if it took place in a residential placement or in the family home, the child may need to be found an alternative address away from the victim. If an address is required, you should work with the child's family and local authority to provide an appropriate bail address to the court.
5. You should take into account any activity the child is currently engaged in e.g. education, training and employment, leisure activities, their support network and any other factors which could enhance the bail application and the bail supervision and support package.
6. You should embed diversity and cultural considerations in every decision, and ensure that bias, negative labelling, language and cultural bias are considered and removed from reports and information presented. For example, research has shown that there can be an increased perception of risk with Black children; or an inaccurate perception that children from Gypsy, Roma and Traveller communities are likely to be in transient accommodation and may not therefore comply with bail conditions.
7. You should assess potential risks to the child and others to weigh up safety and well-being concerns with protection of the public. The Community Package Bail Proposal section of AssetPlus will then form the basis of your proposal to the court.

At the end of the assessment process, you should decide whether to propose a bail supervision and support package, with or without intensive supervision and surveillance. You should consider carefully the proposals made for over-represented groups, particularly children who are Black, of Mixed heritage and looked after, to ensure that what is being proposed is fair and proportionate.

In instances where the assessed risks are too high for the safe management of the child in the community, you may choose to not propose a bail supervision and support package to the court. In these instances, you should:

- explain to the child and their parents/carers why this is the case
- stress they will have the continuing support of the YJS
- explain that the decision may not prevent a future application being made, as the service will keep their situation under review and maintain contact with them whilst in custody

You should always work within the agreed guidelines of your service and ensure that decisions are defensible as well as being in the best interests of the child.

### **How to present your bail assessment and report to the court**

Reports which support a bail application will be prepared using the 'Community Package Bail Proposal' section of AssetPlus, containing the following at a minimum:

- suitability for conditional bail supervision and support with reasons given
- ideally, the child's informed agreement to engage and participate with the proposed package
- details of the bail address, checked by youth justice service (YJS) police officer for suitability
- the content of the bail supervision and support package provided and the level of contact with the child during the bail period
- any other conditions assessed as necessary to protect the public and ensure a return to court
- details of what will happen if the child does not engage with bail supervision and support package

The report should contain the proposal that the court impose the condition "to comply with the requirements of the bail supervision and support package". This will give you the scope to amend the content (without returning to court) as the needs and risks presented by the child may alter. You should liaise with the police, CPS and defence in advance to ascertain if there are any objections to bail and address them ahead of the bail hearing.

The method of presentation to the court is likely to be dependent on the time available. There are advantages in presenting the report in writing as it ensures that all parties are clear about the content; and wherever possible this would be preferred. Any written documents should be made available to the court and the report (whether verbal or written) should be presented to it alongside the bail application by the defence solicitor. The child and their parent/carer should be fully aware of (and agree to) the contents prior to the report being presented to the court.

If the child is the responsibility of a different local authority and the host YJS is presenting the bail package to court, the proposal should be agreed with the home authority prior to submission to court and the home authority provided with a copy of the report or if it was presented verbally the details it contained. See the section on [case responsibility](#) for more details.

### **The bail supervision and support package (with and without intensive supervision and surveillance)**

Bail supervision and support is the provision of services (intervention and support) designed to support children who are awaiting trial or sentence. It assists them to successfully complete bail in the community, by addressing their circumstances and objections to bail through the provision of relevant support. Section 38(4)(c) of the Crime and Disorder Act 1998 imposes a statutory duty on local authorities and their partners to provide “support for children and young persons remanded or committed on bail while awaiting trial or sentence”.

Bail Intensive Supervision and Support (ISS) also falls under this duty and while is not explicitly listed, is a more intensive form of bail supervision and support usually used as a direct alternative to a remand to youth detention accommodation. ISS is accompanied by an electronically monitored curfew or location monitoring by GPS tag, which is the element described as surveillance.

Youth justice services (YJSs) should have arrangements in place to ensure that they can offer bail ISS if it's required to prevent a custodial remand. Local authorities are liable for the costs of a secure remand, which will far exceed those of a very intensive community package. YJSs should also ensure that this option is always considered for children with Black and Mixed ethnicities, who are disproportionately represented in the secure remand population.

### **What the Bail Intensive Supervision and Support package looks like**

Bail Intensive Supervision and Support (ISS) is intended to be an intensive package of support, with a high level of contact and structured activity for the child, designed as a direct alternative to custody. It can be used in a dynamic and flexible way to respond to the risks and needs of the child. It does this by being intensive at the start of the bail period and tapering as the child's position stabilises and some of the risk associated with bail decrease.

Contact can also be increased if the child's situation changes to justify it. The frequency of contact at the start, and any subsequent adjustments should be decided by the court, informed by the youth justice service (YJS) professional assessment and relate to the circumstances of each individual child. Contact can be up to 25 hours a week. Bail ISS always includes electronic monitoring, which may be by radio frequency or GPS tag. Read [the YRO Electronic Monitoring Requirement](#) and [how to manage the YRO Electronic Monitoring Requirement](#) for information on the considerations around the use of electronic monitoring and the use of GPS location monitoring.

The court can only impose electronic monitoring if the current arrangements in the local area allow for it.

The key element at the outset will be development of a positive working relationship with the child so that they successfully engage. When designing the content of the support, the practitioner should consider whether the bail ISS package:

- is likely to be effective in managing the courts concerns as an alternative to custody
- prioritises the best interests of the child
- recognises their individual needs, capabilities and rights
- protects the public
- is sufficiently child focused and developmentally informed

Bail ISS should provide regular statutory supervision sessions which manage any risks posed to the child, victims or the wider public. Children subject to bail ISS should, where possible, be engaged in education, employment or training, with the number of hours being determined by the YJS to suit the child's

circumstances and needs. Existing engagement with education, training or employment or involvement in vocationally focused activity may be part of this.

If the child is currently on a statutory community order the appointments associated with this can act as contacts for bail supervision and support and bail ISS.

YJSs may also offer other forms of support such as with education, training and employment, health issues, substance misuse, use of leisure time and family support. These should not be mandatory, and whilst they can form part of the intensive package, they should not be enforceable, but focused on assisting the child with harm reduction and leading a healthy and safe lifestyle.

As there has been no finding of guilt at this stage it is not appropriate to undertake offending focused interventions or restorative justice.

The most successful bail ISS packages are those where the YJS takes a holistic approach and is creative about meeting the needs of each child, rather than offering a standard package of support. It is also essential that any objections to bail are addressed in the package.

There should be a regular review of the child's engagement and progress with the bail ISS package. This should include a review as to whether the ISS element of the support remains necessary considering engagement and any change in the factors which led to its imposition. Application may be made to the court to vary the condition where relevant. For example, to reduce the intensity of the package or consider the use of other bail conditions.

### **How to manage a bail supervision and support package**

If the court imposes a bail supervision and support package, the youth justice service (YJS) is responsible for the case management. The child should be allocated to a worker within 24 hours. If the parent or carer was not present in court, they should be contacted within 24 hours of allocation to engage them in supporting the child to work with the YJS. This may include a home visit.

The case manager should ensure that the child and their parents and carers understand the requirements of the bail supervision and support package. The requirements should be agreed and signed by the child (and their parents/carers), and a copy provided to them.

The child should know who they will be working with and have an identified case manager. The case manager should support them to:

- determine who else they need to be in contact with as part of their bail supervision and support package where they need to report to (or how they will be contacted)
- understand that if they do not engage with the YJS they could be returned to court and be remanded in custody

If a child is fitted with an electronic tag, the case manager responsible for the child must contact the provider and provide their contact details so that in the event of a breach the YJS can be notified (see also [what to do when a child breaches electronic monitoring](#)).

### **What to do if the child has their 18th birthday whilst on bail**

In many cases, youth justice services will choose to continue to manage children who turn 18 while on bail given that the offence for which they were bailed took place when they were under 18 years of age. This will help to ensure the continuity of support and supervision and the management of vulnerability and

harm to others. Once the child has been sentenced, transition processes to the probation service should take place. For more detail, please refer to the [how to manage transitions](#) section.

### **What to do if there is a breach of bail**

If a child does not engage with any bail supervision and support condition, this should be followed up by a phone call or home visit within 24 hours, to determine whether there is a valid reason for this. You should record the reasons and circumstances on the child's case record to inform any later decision making. As the professional it is your responsibility to find ways to engage children. You should be flexible, creative and responsive to their needs whilst also mindful of the obligation to the court. You should engage parents/carers and establish if and how they are able to assist the child to work with the youth justice service (YJS). For more detail, please refer to [how to encourage engagement \(compliance\)](#).

Any breach of bail may lead to a decision to remand the child. You should make every effort to engage the child, and only use breach as a last resort; for example, when the safety of the public or any individual is at risk. You should talk with the child to establish:

- whether they are having any difficulty in engaging with the YJS and the conditions of bail
- what has been successful and how this can be built upon
- whether they need any additional support
- whether there is a public protection risk and how that should be addressed

You have the option of considering whether you should vary any of the requirements of the bail supervision and support package and/or formally or informally warn the child that they must comply with the bail condition. A failure to do so will mean them being returned to court and potentially facing more serious consequences. Please refer to [how to respond to non-engagement \(breach\)](#) for more detail.

Breach proceedings are instigated by making a witness statement to the police. The child should be advised that breach has been instigated and they should attend court as required. You will then prepare a breach report giving full details including the:

- reasons given by the child for not adhering to their bail conditions
- progress made and engagement to date
- context in which the breach occurred
- actions which could be taken to support engagement with the YJS

You should always consider that an ultimate outcome of taking the child back to court could be a custodial remand. Breach reports should always give an account of any positive engagement, progress against goals and factors which could support further engagement. The report should indicate that you are prepared to continue working with the child and to support them; and suggest any alterations to be made which would promote engagement.

The YJSs levels of breach action should be monitored and reported to the YJS management board as part of regular performance management data. The board should have oversight of actions to avoid high levels of breach; and of monitoring breach action to ensure it is not disproportionately taken against children from ethnic minorities or against vulnerable and children and those who are looked after. Any decision to take breach action should be accompanied by a review led by an independent manager. This should consider:

- what has led to a failure to engage this child?
- learning can be taken for the development of individual staff or the service
- alterations which can be made to help the child to engage in the future

## **Remand to local authority accommodation**

If a child is refused bail, they should be remanded to local authority accommodation. The provisions for this are contained in [chapter three of the Legal Aid, Sentencing and Punishment of Offenders Act 2012](#). See also remand to local authority accommodation in [this circular](#).

A remand to local authority accommodation is available for all children under 18 years of age. Local authorities have a legal duty under [Section 21 of the Children Act 1989](#) and in Wales, [part six of the Social Services and Wellbeing \(Wales\) Act 2014](#) to provide accommodation for all children remanded to local authority non-secure accommodation. This may be an option if the court is not satisfied that a bail supervision and support package would be enough to address the objections to bail.

Children's services will decide what the most appropriate placement will be which can include in a (remand) foster placement or a children's home or to family or friends (if appropriate). Conditions may be attached to the remand to local authority accommodation in the same way as for conditional bail, such as a curfew.

If the court is considering a remand to local authority non-secure accommodation, it is required to consult with the local authority about availability and suitability. The youth justice service (YJS) court duty officer may in the first instance liaise with children's services to alert them to this possibility and request that they find a placement. The court must specify the local authority to which the child is remanded. Every child remanded to local authority accommodation becomes 'looked after' by the local authority. Where there are conditions imposed, the court has a duty to explain these to the child in plain language and check understanding.

If a child appears in a court out of their 'home' area, the YJS court officer will need to liaise with the home authority when making any decisions related to this type of remand. Please see the [case responsibility](#) section for more information about managing children from another area.

If placed in local authority non-secure accommodation, the YJS should continue to work with the child and support them through the remand period and should also work with children's services and the residential provision to assess and address the child's needs.

## **What is a remand to youth detention accommodation?**

If a child is refused bail, they can be remanded in youth detention accommodation (custody) only if the case meets the legal tests. The courts must record their reasons for imposing custodial remand, showing that they have considered the welfare of the child in their decision and have considered remand to local authority accommodation. The chair of magistrates or judge must explain to the child the reasons for the remand; and HM Courts and Tribunals Service must provide these reasons in writing to the child. [Sections 98 to 102 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) sets out these conditions and the framework for this type of remand. See also [this circular](#).

Even if these conditions are met, a custodial remand should only be used where it is absolutely necessary. Youth justice services (YJSs) should be proactive in managing cases appearing in court and anticipating where a child may be at risk of being remanded in custody. This is because all other options are unlikely to meet the objections to bail and unless there are exceptional circumstances, you should always prepare and propose a community alternative for the court to consider.

The option of a remand into youth detention accommodation is available for children who meet the criteria aged 12 to 17 years of age. The type of accommodation they are placed in (a young offender

institution, secure training centre or secure children's home) will depend on a range of factors, including the child's:

- age
- sex
- vulnerability
- previous experiences of custody
- and the availability of placements

Every child remanded to youth detention accommodation becomes 'looked after' by the local authority. Children of 10 and 11 years must be remanded to local authority accommodation.

The placement decision is made by the Youth Custody Service with recommendations from the YJS assessment of the child.

### **The type of youth detention accommodation the child is remanded into**

The Youth Custody Service is responsible for placing children in all forms of youth detention accommodation. However, the youth justice service (YJS) will make recommendations on the most appropriate placement type for the child's needs. Factors which influence the placement decision include:

- the child's safety and wellbeing and any additional safeguarding needs the YJS has highlighted
- the level and nature of risk the child is assessed to pose to others and which individuals and/or groups are at risk
- the child's previous history within the secure estate, including any previous experiences in specific placements
- any specific needs, for example the requirement for a particular programme of support; health, education or welfare needs which can best be met at a specific establishment
- the availability of places across the secure estate
- any co-defendants, gang or territory affiliations which may cause tensions with other children in custody, and make particular placements unsuitable for that individual

### **How the YJS arranges a secure remand placement for a child**

If a child is likely to be remanded into youth detention accommodation, the youth justice service (YJS) officer in court should contact the [Youth Custody Service \(YCS\) Placement Team](#) as soon as possible with the relevant information and be familiar with the arrangements for making a placement decisions and what information will be needed.

Once it is established that a remand into youth detention accommodation is likely, the YCS Placement team should be contacted by telephone on 0345 36 36 36 3. Further information about the placement process is available in the YCS's [Placing young people in custody guidance](#).

The Bail and Remand module of the AssetPlus assessment must be completed and sent to the YCS Placement Team to inform decision making and highlight any safeguarding concerns about the child. If the child has been securely remanded, an AssetPlus Post-Court Report stage including an updated custody module must be completed and sent via Connectivity, the online system for sending this information, that working day.

It is important that your assessment considers the child's individual needs from a diversity perspective and reflects any specific needs arising from cultural difference. You should be aware that there are often stereotypes and assumptions made about children from specific backgrounds because of their race, religion or looked after status and should ensure that the child is presented in a positive way which does not contribute to this.

The YJS should give the YCS a recommendation as to what type of placement would be suitable based on their assessment of the child and their needs. The ultimate decision of where to place the child is taken by the YCS. If there is disagreement on the placement decision, this should be escalated to managers in the YCS's Placement Team, YJS and local authority.

The Placement Team will review the child's documents and make a placement decision and referral to the identified accommodation provider. Once the placement has been confirmed, the Placement Team will issue a placement confirmation form to the YJS, the escort contractor and the accommodation provider.

The cost of remand accommodation is charged to the local authority. The cost of the different types of youth detention accommodation varies significantly but should never influence the choice of placement. When the YJS is considering what type of accommodation would be most suitable for a child facing a custodial remand, the decision should be informed by the child's needs (particularly their vulnerability and any safeguarding concerns), and not the cost of the accommodation.

Whilst it is important that all the correct notifications and paperwork is completed to manage the remand, it is important not to lose sight of the fact that a child has lost their liberty. You should spend time with them to check on their well-being, to explain what will happen next, discuss any anxieties and find out if there is anything practical which immediately needs to be done to assist them.

### **How to support a child who has been remanded in custody**

Once the child has been remanded into custody, you should:

- ensure that they are allocated to a suitable worker within the team; ideally one with prior knowledge of the child
- inform parents, carers, education establishments, accommodation providers and any other relevant organisations or individuals
- liaise with children's services to ensure that looked after assessments and duties are initiated promptly (see below)
- work with the secure establishment to put remand plans in place which meet the child's needs
- review the remand to consider whether an application should be made for bail at the next court appearance; liaise with the child's solicitor and if so, list this as soon as possible

It is good practice to hold an in person initial planning meeting no more than five working days from the date of the remand and agree what the child will undertake during their time in youth detention accommodation.

Because all children remanded to youth detention accommodation automatically achieve looked-after status (see also [what looked-after status means for children remanded to youth detention accommodation](#)), it is recommended that you use a single detention and placement plan for the child whilst they are on remand. The following template is an example of a [remand detention placement plan](#).

The plan should be based on the needs set out in the AssetPlus assessment and should address how continuity of education and vocational advice and experience will be maintained whilst in custody. To ensure the secure establishment has the most up to date information about the child's education status, progress and any learning difficulties and disabilities, you should liaise with:

- the home education authority where the child is of school age, to ensure that their statutory duties continue to be met
- the relevant education or training provider, employer or careers advice agency if they are above school age

The initial planning meeting should include the:

- child
- case manager from the home YJS
- child's parents or carers
- allocated social worker
- any other individuals who have been engaged with the child

At the initial planning meeting if the child is approaching 18 years of age (generally within six months of that date), you should begin planning for their possible transition to the adult prison estate or the probation service, being mindful of when they are likely to be sentenced. For further information see the [national protocol for transitions in England](#) and the [youth to adult transitions guidance for Wales](#).

### **How many times bail applications can be made for a child**

Every planning meeting should consider a remand review and whether a bail application should be made to ensure that children are not remanded in custody for any longer than is necessary. Two bail applications can be made which the court is bound to consider. After these have been made, the court is not obliged to hear any arguments they have heard previously.

Subsequent bail applications can only be made if the circumstances of the child or the case have changed, or when new information can be put before the court. In these instances, the youth justice service (YJS) should re-examine what would be appropriate in terms of a bail package with or without intensive supervision and surveillance. The YJS should also liaise with the child's solicitor to agree what is appropriate at any stage.

The first court appearance counts as the first bail application whether it's used or not and further applications are normally made at the next appearance. However, applications can be made to the Crown Court provided the magistrates court has issued a certificate of full argument or to a judge in chambers in the High Court.

### **If the child reaches their 18th birthday on remand**

Where possible, children who turn 18 while on remand should remain in the under-18 estate until their court case has concluded and they are sentenced. Consideration should be given to the length of time the child is likely to remain on remand and, if convicted, the type of custodial sentence they would receive. At no time should children move to the adult estate straight from a court hearing. If the child receives a custodial sentence, they should return to youth detention accommodation. This should then be followed with a planned move as part of their transition plan. More information is within this [guidance](#) from HM Prison and Probation Service.

## **What looked-after status means for children remanded to youth detention accommodation**

All children remanded to youth detention accommodation automatically become looked-after by their home local authority, including children who were previously not looked-after. If they were looked-after prior to the remand they will continue to receive services under the [Children Act 1989 \(England\) and the Social Services Well-being \(Wales\) Act 2014](#). This includes where a child is serving a custodial sentence, during which they are charged and remanded for other offences – known as a ‘technical’ remand, although in this instance the local authority will not be charged for the cost of the remand accommodation.

Children’s services continue to have a duty to carry out reviews for a child who is looked after to assess their welfare needs, ensure they are met and see whether the child has any other support (including financial) needs the local authority should meet. The child should continue to have an allocated social worker while they are in custody who maintains contact with them.

A plan should be agreed and put in place, based on the local authority’s assessment of the child’s needs, no more than 10 working days after the remand starts. The youth justice service (YJS) should be aware of the plan and as far as possible looked-after reviews and remand reviews should be combined. This is so that the relevant professionals can be present and take a holistic view of the child’s needs. However, it is also important that each agency retains their distinct roles and responsibilities and supports the child in line with their statutory duties.

[The Visits to Children in Detention \(Wales\) Regulations 2015](#) specify the children (other than those currently looked after) that the local authority has a duty to visit. This is to ensure that all children in custody have local authority support should they need it. This includes children who are convicted of an offence by a court and who are sentenced to custody, but lose their looked after status because:

- immediately before being convicted and detained, they were a looked after child by virtue of a local authority in Wales providing them with accommodation under section 76 of the Act, or
- they were ordinarily resident in Wales and were treated as a looked after child in accordance with section 104 of the Legal Aid Sentencing and Punishment of Offenders Act 2014, by virtue of being remanded

This [guidance](#) sets out the responsibilities of children’s services and YJSs in Wales for children in custody including those on remand.

If the remand lasts for 13 weeks or longer (on single or cumulative occasions), the child becomes eligible for leaving care services. This means they will receive advice and additional support beyond their 18th birthday, up to the age of 21 or 25 depending on their circumstances. This can be in relation to accommodation, education and health as well as financial assistance (including for higher education) by the responsible local authority. Every child eligible for leaving care services should have a pathway plan which is compiled with them by their social worker which sets this out.

## **The importance of a remand strategy**

It is important for each youth justice service to have a documented strategy for managing and minimising the use of custodial remand for children. All staff should be familiar with the strategy and be able to implement it effectively. The strategy should include:

- offering services proactively to children from arrest through to sentence
- responding systematically to children at each stage to reduce use of remand
- identifying children at risk of remand, with assessment and review throughout

- having mechanisms in place to select the best and most appropriate resources to support each child according to their needs, including the provision of bail intensive supervision and surveillance and how it will be delivered
- effective liaison with the police and courts
- processes for regularly reviewing remand decisions
- monitoring and evaluation of outcomes, particularly for over-represented groups and where disproportionality may be evident

## Section 7 - Ancillary orders

The different types of civil orders given to children in or on the verges of the justice system. It includes the role of the youth justice service and what happens if they are breached as well as information on civil injunctions and other ancillary orders.

### *The use of ancillary (civil orders)*

As well as giving a criminal sentence to a child, in some circumstances the court may impose additional orders. These are known as ancillary orders. These can either be aimed at preventing an escalation in anti-social behaviour which may lead to offending; or be added to a sentence. It is the court's decision as to whether an ancillary order is appropriate, based on an assessment of the offence and the individual child.

Whilst civil orders are intended to be preventative rather than punitive, breach of a civil order is a criminal offence and it is therefore important to apply them appropriately and with the necessary support for the child and their family. Some (but not all) ancillary orders require consultation with the youth justice service (YJS), others can be imposed without it. However, it is good practice for the YJS to be involved in establishing:

- whether any other alternatives could be considered
- if alternatives have been used how the child has responded to them
- what support is available to them and their family and whether the ancillary order is appropriately targeting the child's needs and likely to be effective in achieving change.

YJSs may hold information which will be useful for informing decision making and maximising the engagement with the child.

Informal measures such as an Acceptable Behaviour Contract should be considered and utilised to support the child and provide them with a supported opportunity for positive behaviour before moving to civil orders. Where a child is also subject to a criminal order, consideration should always be given to what interventions and support can be provided through the existing order, to improve engagement and positive outcomes for the child, rather than adding an ancillary order. This avoids confusion for all involved which can contribute to challenges for the YJS in engaging the child.

It is good practice for the YJS to have protocols in place with the local authority anti-social behaviour team, the Crown Prosecution Service and the police, so that when an ancillary order is under consideration, the YJS will be alerted and there is an established process for considering what is the most appropriate course of action and to assess the child's needs.

Evidence suggests that the use of civil orders, and breaches of these, can contribute to disproportionate outcomes for some groups of children in the justice system or escalate them into the formal justice system as a result of breach. Diversity should be a consideration in all consultations on civil orders and care should be taken to prevent disproportionate use or criminalisation of over-represented groups. This includes (but is not restricted to):

- Black and Mixed ethnicity children
- children from Gypsy, Roma and Traveller communities
- children who are or have been looked after by the local authority

Care should also be taken to recognise the specific needs of children with protected characteristics including learning needs and invisible disabilities. Civil orders should be not used to address vulnerabilities or safeguarding needs, these should be addressed through other routes such as children's social care.

For the latest research, visit the [Youth Justice Resource Hub](#).

### ***The types of ancillary order which can be given to a child***

The following ancillary orders can be given to a child by the court and this guidance sets out each with a brief description of the key requirements and the minimum and maximum duration of each where appropriate:

- driving penalty points and disqualification
- Community Protection Notice
- Criminal Behaviour Order
- civil injunctions: Anti Social Behaviour Injunction and Gang Injunction
- Sexual Harm Prevention Order
- Stalking Order
- Knife Crime Prevention Order

### ***What to consider regarding prohibitions or positive requirements on an ancillary (civil) order***

Requirements should directly respond to the behaviour the order seeks to address, and not repeat or duplicate anything which can be delivered through a criminal order to which the child is also subject. Where the requirements of the criminal order can be used to achieve the same outcomes, it is not necessary or proportionate to repeat them through a civil process and can cause confusion.

Prohibitive requirements might include restricting the child from entering a specific geographical area or associating with other named children. You should recommend against any proposed prohibition which:

- restricts the child's ability to engage in education, work or positive activities
- restricts the child in engaging with statutory court orders
- increases stigma or supports a criminal identity
- is in itself a criminal offence, such as 'carrying a knife'
- is so wide that it restricts disproportionately – such as prohibiting the child from carrying a mobile phone
- impacts on the child having normal social interaction – they should not usually be prohibited from associating with more than two named individuals
- is disproportionate or overly restrictive e.g. has too many requirements. For a child, a maximum of three requirements is suggested to promote engagement
- is vague or unclear to the child, taking into account the child's age, maturity and learning needs

Positive requirements might include requiring the child to attend an educational programme or substance misuse support; or engage in positive social activities. The focus should be on developing the child's individual strengths and capacities, and a positive self-identity. Any positive requirements proposed should have a direct relationship to the change the order seeks to achieve. In discussing proposals for positive requirements, you should be aware that:

- discussing with the child and their family what would be meaningful and helpful to them is more likely to support the service in engaging the child

- it is a breach of the order if the child, without reasonable excuse, fails to do what they are required to; so positive activities may be better delivered on a non-mandatory basis
- maximising opportunities for voluntary engagement may be more effective than requirements which contain compulsory attendance
- therapeutic work which helps to lessen the likelihood of future harmful behaviours such as counselling is actively undermined by compulsory status
- children who are forced to attend sporting or other positive activities are likely to engage less than those who attend by choice
- it is not appropriate for civil orders to be used to meet a child's safeguarding needs, or protect them from abuse or exploitation

### **Acceptable Behaviour Contracts**

Before a civil order is considered, you should use informal measures to attempt to support the child. Good partnership arrangements with the police and Community Safety will give the opportunity to explore voluntary intervention first. This could include the use of an Acceptable Behaviour Contract (ABC).

An ABC is an agreement made with the child by the partner agencies concerned, setting out what specific actions will be undertaken, and what support can be given to the child to achieve this. This may include voluntary engagement with the youth justice service, Early Help or other support services.

ABCs are voluntary, and there are no enforcement measures possible apart from moving to formal court action. They should be drawn up jointly with the child and can be effective in supporting the child to understand the impact of their behaviour and what change is needed and to access guidance and support.

### **The ancillary penalties that can be given to a child for driving offences**

For some driving offences, the court may give penalty points. This applies to children even if they are below the legal driving age and/or do not have a driving licence. Sometimes there is also a period of disqualification. Where the child is below the legal age for driving, an out-of-court disposal with driving education is likely to be more meaningful and effective than these measures.

In some cases, the court can decide whether or not to disqualify the child from driving. You should consider the impact on the child on employment and training opportunities, aspiration and interests.

### **The Community Protection Notice and what it means for a child**

A Community Protection Notice (CPN) can be given to a child aged 16 or over, with the aim of reducing anti-social behaviour (ASB). Unlike other ancillary orders, there is no maximum length for a CPN (though the timescale must be proportionate), and it is not necessary for a criminal sentence to have been given. CPNs are usually given by council ASB officers; but may also be given by police officers or registered social landlords. No court process is necessary for a CPN to be given.

A CPN may be given if the child's behaviour is seen to be:

- having a negative effect on local people
- persistent
- unreasonable

Before giving a CPN, the child must be given a written warning explaining the specific behaviour which should change, a reasonable timescale for demonstrating change, and that a CPN is being considered. At

this stage every effort should be made to address barriers – for example a child who has no school place or is subject to neglect or abuse at home will need support in these areas as a priority.

A CPN will include requirements to do or not do certain things. These should be directly related to the behaviour which the notice is intended to change and should be less onerous than those expected from a court issued order. There is limited statutory guidance on the detail of requirements, and there is no expectation of consultation with the youth justice service prior to giving the Notice – though it would be good practice to agree local consultation arrangements with local authority ASB services and the police. See [what to consider regarding prohibitions or positive requirements on an ancillary \(civil\) order](#).

If consulted, you should suggest that:

- no more than a maximum of three requirements should be given
- the Notice should be given for a period of six months maximum
- requirements should be of a low level commensurate with an out-of-court process

Breaching a CPN is a criminal offence and can lead to a fine.

### **The Criminal Behaviour Order and what it means for a child**

A Criminal Behaviour Order (CBO) can be given to a child aged 10 or over on conviction for a criminal offence, where the court considers it is necessary to prevent behaviour which may cause harassment, alarm or distress, proved to the criminal standard ('beyond reasonable doubt').

The Crown Prosecution Service (CPS) must consult the local youth justice service to get your views before applying for a CBO. Your service should have a local protocol with the CPS and police for how this consultation process should happen, including:

- involving a manager of operations level at minimum in the consultation process, as well as the case manager for the child
- consideration as to whether an informal measure such as an Acceptable Behaviour Contract can be utilised prior to civil action
- agreement on a maximum number of requirements to be given to a child on a CBO (it is suggested that this should be no more than three to support positive engagement)
- agreement on a maximum timescale of one year for the CBO, with review and the option of early revocation for good progress as well as extension if needed

Reporting restrictions do not apply to making a CBO. Legally, decisions to publicise CBOs for children must be necessary and proportionate; and have considered the welfare of the child. Shaming children is shown to increase a criminal self-identity and cause additional societal stigma; and is to be avoided.

If the child does not keep to the terms of the CBO, this is a criminal offence and they can be arrested. The CPS must decide whether it is in the public interest to prosecute, balancing the seriousness of the offence with the welfare of the child. A breach can lead to six months' imprisonment, a fine, or both.

### **Anti-Social Behaviour Injunctions (civil injunctions)**

An Anti-Social Behaviour Injunction (ASBI) can be given to a child aged 10 or over to prevent anti-social behaviour causing harassment, alarm or distress, proved on a balance of probabilities. It is usually applied for by the local authority or police, and the youth justice service must be consulted. Your service should

have a local protocol with the Crown Prosecution Service and police for how this consultation process should happen, including:

- involving a manager of operations level at minimum in the consultation process, as well as the case manager for the child
- consideration as to whether an informal measure such as an Acceptable Behaviour Contract has been utilised prior to civil action; and factors underlying the behaviour been addressed and resolved
- agreement on a maximum number of requirements to be given to a child on an ASBI (it is suggested that this should be no more than three to support engagement)
- agreement on a timescale of between three and six months for the ASBI, with review and the option of early revocation for good progress as well as extension if needed

The maximum length for an ASBI is 12 months. In order to maximise the likelihood of engagement for the child it is suggested that the starting point should be a much shorter period, with the option to extend if necessary.

ASBIs can include prohibitive and restrictive requirements; see [what to consider regarding prohibitions or positive requirements on an ancillary \(civil\) order](#).

Reporting restrictions do not apply to making an ASBI. Decisions to publicise orders about children should be necessary and proportionate; and have at their centre the welfare of the child. Shaming children is shown to increase a criminal self-identity and cause additional societal stigma; and is to be avoided.

Breach of ASBI is not a criminal offence, but it does carry a power of arrest and the court can make a supervision order or impose a custodial sentence of up to three months if the child does not engage.

### **Gang Injunctions (civil injunctions)**

A Gang Injunction can be given to a child aged 14 or over if the court considers, on the balance of probabilities, that this is necessary to prevent gang-related violence or drug dealing activity. The youth justice service must be consulted if the application is against someone under the age of 18 any other body or individual the applicant thinks appropriate must be informed. Your service should have a local protocol with the Crown Prosecution Service and police for how this consultation process should happen, including:

- involving a manager of operations level at minimum in the consultation process, as well as the case manager for the child
- consideration as to whether an informal measure such as an Acceptable Behaviour Contract has been utilised prior to civil action
- whether the child is being exploited and safeguarding measures have been taken to protect them
- agreement on a maximum number of requirements to be given to a child on a Gang Injunction (it is suggested that this should be no more than three to support engagement)
- agreement on a timescale, it is suggested that this should be six months for the Gang Injunction, with review and the option of early revocation for good progress as well as extension if needed

Gang Injunctions can include prohibitive and restrictive requirements; see [what to consider regarding prohibitions or positive requirements on an ancillary \(civil\) order](#).

Reporting restrictions for youth courts apply to making a Gang Injunction, so there can be no publicising of these orders.

Breach of a Gang Injunction is not a criminal offence, but the court can make a supervision order or impose a custodial sentence of up to three months if the child does not engage.

For under 18s, a supervision order is usually given or, as a very last resort, and only for 14 to 17-year-olds, a civil detention order of up to three months.

### **The Sexual Harm Prevention Order and what it means for a child**

A court can make a Sexual Harm Prevention Order (SHPO) if a child has been sentenced or cautioned for an offence listed in Schedules 3 and 5 of the Sexual Offences Act 2003 and it considers it necessary to protect the public from sexual harm. SHPOs are imposed for a minimum of five years and must be necessary and proportionate so it is unusual for one to be used in relation to a child. The lower age limit is 10, which is the age of criminal responsibility, but where the defendant is under the age of 18, an application for an order should only be considered under extremely exceptional circumstances of very high risk of harm. SHPOs can only have prohibitive requirements; positive requirements may not currently be imposed.

**A Sexual Risk Order (SRO) is a civil order** which can be sought by the police against an individual who has not been convicted or cautioned for a sexual offence but who is nevertheless thought to pose a risk of harm. An SRO sets prohibitions which must be necessary to protect the public, children or vulnerable adults from harm, and should only be used in very exceptional circumstances for a child. The minimum duration for a full order is two years.

SHPOs and SROs require the child to notify the police within three days of any changes of name or address. The court may also direct a parent or carer to do this on the child's behalf. When applying for a SHPO or an SRO in relation to a child, the following principles should apply:

- early consultation and participation of the youth justice service in the application process
- the welfare of the child is a paramount consideration and must be balanced with the prevention of future harmful behaviour
- all other orders already in existence are taken into account to ensure that there are no conflicts, and that the child is able to comply
- under 18s made subject to civil injunctions in relation to harmful sexual behaviour should be offered appropriate interventions to support them
- the nature and extent of support should be based on a structured assessment that takes into account the needs of the child and the risk of harm

There is a range of measures for breach of SHPO, from a fine to a five-year custodial sentence. There is no specific guidance on breaches by children, the welfare of the child would need to be balanced with prevention of future harmful behaviours.

### **The Stalking Protection Order and what it means for a child**

Stalking Protection Orders can be issued by a youth court to children from the age of 10 if the court is satisfied that the:

- child has carried out acts associated with stalking
- child poses a risk associated with stalking to another person and
- proposed order is necessary to protect another person from such a risk

A Stalking Protection Order is for a minimum of two years. It can contain both prohibitions (things the child is not able to do) and requirements (things the child must do); see [what to consider regarding prohibitions or positive requirements on an ancillary \(civil\) order](#).

In the very rare occasions when the police are considering applying for a Stalking Protection Order for a child under 18 years old, there is a requirement for consultation with the local youth justice service. The consultation should:

- involve a manager of operations level at minimum in the consultation process, as well as the case manager for the child
- agree a maximum number of requirements to be given to a child on a Stalking Protection Order (it is suggested that this should be no more than three to support engagement)
- agree on a timescale of two years, with review and the option of early revocation for good progress as well as extension if needed

Failure to comply with either prohibitions or requirements is a criminal offence and the child can receive a fine, or custodial sentence of up to five years.

### **The Knife Crime Prevention Order and what it means for a child**

A Knife Crime Prevention Order (KCPO) can be given to a child aged 12 years or more if the court considers on the balance of probabilities that the child has carried a knife (or other bladed article) at least two times; and that the order is necessary to prevent further incidences and protect the public.

The youth justice service must be consulted when a KCPO is proposed. Your service should have a local protocol with the CPS and police for how this consultation process should happen, including:

- involving a manager of operations level at minimum in the consultation process, as well as the case manager for the child
- consideration as to whether an informal measure such as an Acceptable Behaviour Contract has been utilised prior to civil action; and whether any other preventative measures such as those provided by a Violence Reduction Unit have been used
- agreement on a maximum number of requirements to be given to a child on a KCPO (it is suggested that this should be no more than three to support engagement), these should be set with the aim of developing a positive self-identity for the child
- agreement on a timescale, it is suggested that this is six months for the KCPO, with review and the option of early revocation for good progress as well as extension if needed

The maximum length for a KCPO is two years. In order to maximise the likelihood of engagement for the child the starting point should be six months; with the option to extend if necessary.

KCPOs can include prohibitive and restrictive requirements; see [what to consider regarding prohibitions or positive requirements on an ancillary \(civil\) order](#).

Breach of a KCPO is a criminal offence, and the full range of community sentences is available for children who are in breach.

## **Section 8 - How to support parents and carers of children in the youth justice system**

Information on working with parents and carers on a voluntary and statutory basis.

### **Why we work with parents and carers**

Parenting interventions are designed to provide additional support to parents and carers. They aim to:

- strengthen parenting skills to enable parents to develop a positive and consistent relationship with their child
- help parents and carers to promote good behaviour by their child

Parents and carers include:

- parents
- adoptive parents
- guardians and other carers including stepparents
- foster carers
- others undertaking a parenting role

Good parenting interventions also help to build self-confidence and awareness of how important effective parenting is. This is not only to prevent children from becoming involved in the justice system, but so that they may go on to lead productive and successful lives.

Good parenting is vital to a child's well-being and is a powerful agent for change in a range of social problems including anti-social behaviour and criminal exploitation. It can increase the child's confidence and resilience and empower parents and carers in addressing complex issues. Parents are important in fostering and promoting a child's pro-social identity. Parenting support can reassure parents and carers and help them to understand what 'good enough' parenting looks like.

Parents and carers should be encouraged and supported to contribute to the AssetPlus assessment. This includes them completing the parents' self-assessment section, to ensure that all information is shared in assessing parental and family need.

The aims are that:

- the child has the best opportunity to achieve positive outcomes
- the needs of parents and carers are understood
- parents and carers are successfully assisted to negotiate the difficulties they may be facing

### **How to complete a parenting assessment in a pre-sentence report**

All pre-sentence reports you prepare for court should include consideration of whether guidance for parents or carers is advisable to support the child's desistance. AssetPlus includes a parents' self-assessment which should be used to inform this. If you take the view that parenting support is necessary, you should make every effort to engage the parents or carers in voluntary interventions before considering statutory measures.

Some youth justice services (YJSs) have specialised parenting officers, but it is recommended that case managers also develop and maintain good relationships with the parents and carers of the children they are supervising.

In all cases involving children under 16, the court is legally required to consider imposing a Parenting Order when a child is being sentenced. Often it is decided that a Parenting Order is not the most effective way to support a parent or carer, particularly where there are mental health and substance misuse issues; or the parent or carer is already engaging with support. If your assessment shows that such support is not necessary or appropriate, it is important that the pre-sentence report explains why not, to avoid unnecessary criminalisation of the parent or carer.

Although initial work will be to engage the primary carer for each child, you should also engage all those with parental responsibility. Research shows that women provide most of the parental care for children involved in the justice system. As a result, the focus of parenting support (whether voluntary or statutory) is more likely to be on mothers than fathers. You should consider what measures may be necessary to engage fathers (and others undertaking a fathering role) in positive parenting and ensure that services are relevant to them. Where there is more than one parent involved, you should ensure that both are equally engaged and make efforts to ensure there is a proportionate response to the primary care giver to avoid penalising them for undertaking the majority of parenting tasks.

Parenting workers and others who work with parents or carers should proactively contribute to the AssetPlus assessment to ensure that all relevant information is shared and of good quality so that the child has the best opportunity to meet their potential.

YJSs should work with defence solicitors to engage with parents to attend court where possible; or provide the court with statements or information as to why they were unable to attend. This should be done with all children; however, given the disproportionate outcomes experienced by children with a Black or Mixed ethnicity and Gypsy, Roma and Traveller communities, it is of particular importance. Non-attendance at court may result in stereotyped assumptions and unconscious bias in decision making. You should explore potential barriers that might make it more difficult for parents and carers to attend court and provide support where possible to overcome these.

### **What to do if the assessment is that the parent or carer needs support**

The children that you assess in the justice system are vulnerable to criminal exploitation. When you look at the impact of the parenting provided, you should decide whether assistance would help the parent or carer to improve the guidance and support they give their child. You should first consider:

- offering a voluntary intervention
- referring the parent or carer to services offered by third sector organisations or,
- referring them to other services which may be offered within the local authority such as Early Help

This may be in the form of:

- a parenting programme
- one-to-one sessions with a parenting worker
- sessions with a group of parents or carers in similar circumstances

You should always offer voluntary intervention before you consider making an intervention mandatory through the court.

Parenting work should be strengths based; recognising parents' existing abilities and working to build on them rather than focusing on problems and shortcomings.

This [online resource](#) explains how parenting courses can offer support.

### **How to involve parents in concerns about exploitation and Modern Slavery**

Exploitation is defined as using someone for another person's advantage. Children in the justice system are often exploited by older people, for activities such as selling drugs, holding weapons or sexual exploitation. Modern Slavery is when children are recruited, moved and coerced for the purpose of exploitation. It is important to note that the child may not recognise or agree that they are being exploited.

All parents should be made aware of the risks, factors and indicators of all forms of exploitation and Modern Slavery. These should be highlighted to improve their understanding of their children's circumstances and allow them to provide support to help support desistance.

### **The Parenting Contract**

A Parenting Contract is a voluntary agreement entered into by the parent, parents or carers of children who may be vulnerable to exploitation, crime or violence. It is a written agreement between the youth justice service (YJS) and the parent setting out actions which parents have agreed to undertake and any support which will be provided by the YJS or others.

The contracts work alongside voluntary behaviour agreements made with children and are designed to engage the parents or carers to provide the support needed for them to address the needs of their child. They should also be used as a voluntary option prior to consideration of a Parenting Order.

### **The Parenting Order**

Courts are required to consider issuing a Parenting Order where a child under the age of 16 has been convicted of an offence. The court can also consider an order for 16 and 17-year-olds when:

- your team recommends it, or decides that parenting is a significant contributory factor to negative outcomes for a child; and
- it is necessary to mandate engagement with support to address this

The pre-sentence report must contain enough information about the parents or carers to enable the court to make a balanced judgement. When assessing whether it would be helpful to make a Parenting Order you should consider the level of independence 16 and 17-year-olds have from their parents and carers. Parenting Orders should also be monitored through a diversity lens to ensure that proposals are made in a consistent and proportionate way. For parents with Black, Asian or Mixed ethnicity children or who are from Gypsy, Roma or Traveller backgrounds, youth justice services should consider and take account of circumstances or cultural differences in their decisions to ensure that Parenting Orders are not deployed disproportionately for particular groups, over and above where they are necessary.

Parenting Orders can last up to a maximum of 12 months. Parents and carers do not have to be in court for an order to be issued to them; it can be made in their absence. In these cases, your team must make the absent parent or carer aware that an order has been made.

When the court issues a Parenting Order, in relation to a court order for a child, your team will manage the case. It should be allocated within one week, and contact made with the parent or carer concerned. The case manager should ensure that the parent or carer understands the order including its mandatory nature

and should compile a plan (with input from the parent or carer) to meet the requirements of the order. The plan should:

- involve relevant agencies
- be drawn up collaboratively with the parent
- be constructive and future-focused, aiming to strengthen relationships that empower children to fulfil their potential
- ensure that a parenting programme does not last more than three months
- arrange for support sessions at least once every two weeks
- take into account diversity and difference and that every family situation is unique

### **The Child Safety Order**

A Child Safety Order is a court order available to the family court for use with a child under the age of 10 who has:

- committed an act that would be an offence if they were 10 or over (or where it is necessary to prevent them doing so)
- broken a local Child Curfew, or
- engaged in antisocial behaviour

The order can last between three and 12 months. A Child Safety Order contains a set of requirements with which the child should comply. The requirements aim that the child:

- receives appropriate care, protection and support
- is subject to proper control
- does not repeat the behaviour that led to the order, so engagement with the parents or carers is central to success

The order places the child under the supervision of a responsible officer, who can be either a local authority social worker or a member of your team. Supervision should take care to avoid any requirements that may increase criminogenic stigma from contact; or developing a pro-offending identity in the child or family. Breaches of Child Safety Orders can lead to the parent or carer receiving a Parenting Order.

### **What happens if the parent or carer doesn't comply with a Parenting Order**

In line with other court orders, you have responsibility for ensuring you engage parents with Parenting Orders. Where you have not been able to engage them, you should use compliance/engagement panels or other local arrangements to investigate the reasons why and what can be done to provide support and address barriers, in the same way as for children. As youth justice service (YJS) police officers have responsibility for breaches of Parenting Orders, it would be helpful to involve them in actions to reduce barriers and encourage parents to access support.

Where the YJS has been unable to engage the family fully, you as case manager should, with the support of the YJS police officer, compile a detailed report so the order may be returned to court under breach proceedings. Unlike orders for children, breach of Parenting Orders must involve a police investigation, to help to determine whether the case should be brought before the court. The court report should contain evidence of the attempts your team has made to engage the parent and how the lack of engagement could affect the child.

A breach should be carefully considered as it indicates a failure to engage the family; and all other methods of engagement should be exhausted before proceedings start. The maximum penalty for non-compliance with an order is a fine of £1,000.

If the parent has had good reason for not engaging you should consider other actions such as applying to the court for the order to be varied or discharged.

### **How to work with children on court orders who are also young parents**

Many children involved with the criminal justice system in England and Wales are also parents. Young parents may need assistance in looking after and caring for their children. Part of the assessment for young parents consider how to strengthen their parenting skills and abilities.

Statutory and third sector agencies provide a range of parenting services. Local authority Early Help services work with children and their families who are experiencing difficulties. Early Help can provide parenting support and may run nationally recognised parenting programmes. Other options include using specialist parenting workers and projects within the third sector and community and faith groups which may provide support to parents. Your local authority should be able to provide information about services in your area.

Children with special educational needs or disabilities (SEND) (England) or Additional Learning Needs (ALN) (Wales) are disadvantaged. Young parents who have SEND or ALN are even more so. The [Special educational needs and disability code of practice: 0 to 25 years](#) provides further information for organisations working with children who have special education needs or disabilities, including where they are themselves parents.

The Additional Learning Needs and Education Tribunal (Wales) Act 2018 sets out the requirements for supporting learners in Wales aged 0 to 25 who have special educational needs and learning difficulties and/or disabilities. All children with recognised additional learning needs will have an Individual Development Plan which is reviewed annually. For further information see the [Additional learning needs \(ALN\) transformation programme](#).

There is more information on additional learning needs on the [Welsh Government website](#).

### **Examples of effective parenting interventions**

There are a number of national and internationally recognised parenting programmes, which may operate in your area:

- [Positive Parenting Programme \(Triple P\)](#)
- [Strengthening Families](#)
- [Strengthening Families, Strengthening Communities](#)

Your local authority should be able to provide details on what parenting services are available in your area and how they are accessed. Parenting interventions should be able to meet the needs of families from different cultural, ethnic and other backgrounds. They should be sensitive to the needs of fathers as well as mothers and recognise that family structures, norms and values are unique with their own dynamics and interactions. They should offer suitable and appropriate support and intervention to the parents and carers of boys with Black and Mixed ethnicity. The youth justice service (YJS) should regularly review the uptake and suitability of parenting provision.

You can find additional resources on the [Youth Justice Resource Hub](#).

YJSs should provide or support access to specific parenting interventions that meet the cultural or other diversity needs of parents in your area. The Ministry of Justice has produced a report: [‘Improving Parental Engagement’ on the experiences of parents of Black, Asian and minority ethnic children in the youth justice system](#). You are encouraged to consider this document as an assurance tool to better understand the needs of parents of children from ethnic minorities in the justice system. You may also consider this [guide on the role of family support in resettlement](#).

Links to family services including the national [Supporting Families programme](#) in England can provide a wide range of support for families of children in the youth justice system. Wales has the Families First programme which is administered by the local authority and incorporates the Team Around the Family (TAF), which is a multi-agency approach to supporting children and parents who have a broad range of needs. Integrated Family Support Services (IFSS) supports families who are affected by parental drug and alcohol misuse.

## Section 9 - Ways to improve quality

Information on the various ways in which practice can be quality assured and staff developed. It covers workforce development, performance indicators and statistical analysis.

### What you need to know about improving quality as a manager

Effective management and leadership of staff in your organisation is key to delivering a high-quality service. The [standards for children in the youth justice system](#) set out how effective leadership can deliver positive outcomes for children. The YJB expects youth justice service (YJSs) to treat children in the justice system as children. The Child First principles are that you will:

1. Prioritise the best interests of children and recognising their particular needs, capacities, rights and potential. All work is child-focused, developmentally informed, acknowledges structural barriers and meets responsibilities towards children.
2. Promote children's individual strengths and capacities to develop their pro-social identity for sustainable desistance, leading to safer communities and fewer victims. All work is constructive and future-focused, built on supportive relationships that empower children to fulfil their potential and make positive contributions to society.
3. Encourage children's active participation, engagement and wider social inclusion. All work is a meaningful collaboration with children and their carers.
4. Promote a childhood removed from the justice system, using pre-emptive prevention, diversion and minimal intervention. All work minimises criminogenic stigma from contact with the system.

Your self-assessment of your YJS against the Standards and against recommendations from inspection reports from His Majesty's Inspectorate of Probation will identify the areas in which improvement is needed to achieve these outcomes. The [Youth Justice Resource Hub](#) contains a range of resources and tools that can support improvement planning.

Other factors which can contribute to an excellent service are the relationship practitioners develop with the children they are working with and the quality, appearance and child focussed nature of facilities, equipment and communication materials used.

The most effective YJSs act as continuous learning environments where staff at all levels are responsible for their own development and contribute to that of the whole service. Practitioners should be supported to make defensible decisions to advance their practice. Mistakes and setbacks should be regarded as opportunities to learn rather than blame. Services should be actively encouraged and enabled to involve children, stakeholders and the wider community in improving practice, and learn from complaints, reviews and inspections.

### What you need to know about improving quality as a practitioner

You are responsible for providing the best and most professional service you can to:

- children
- parents and carers
- victims
- the justice system
- the local community

It is important to keep abreast of changes in youth justice legislation, research, guidance and practice. You should maintain professional development and take ownership of personal learning needs.

### **Professional development**

You should have regular supervision with your line manager and be able to discuss your work with the children on your caseload. This is to help you:

- receive support if needed to resolve difficulties
- discuss your performance
- raise learning and development needs that will assist you to enhance your professional practice

Supervision should be an opportunity for you to reflect on your work with children, what you feel has gone well and how you might develop your approaches. Lack of consistent, good quality supervision is frequently cited as an issue in youth justice services (YJSs) assessed as lower performing by His Majesty's Inspectorate of Probation. For more information on supervision please visit the [Youth Justice Resource Hub](#)

You should receive regular performance reviews following the procedures set by your employing authority. This should set work targets which are (SMART):

- specific
- measurable
- achievable
- realistic
- time-bound

One-to-one supervision sessions will examine your progress against these targets, support you with challenges and assist you to develop your practice.

The review process will also agree a development plan which sets out how you can improve your practice. Options within the plan might include:

- attending formal training courses
- using online resources such as the [workforce development](#) section on the Youth Justice Resource Hub
- being 'buddied' or mentored by other members of the team (or other YJSs)
- receiving guidance and feedback from managers
- taking part in quality assurance processes
- shadowing other workers
- other forms of feedback

It is vital that you take responsibility for your own development. You should:

- identify areas in which you would like to improve; discuss them with your line manager and agree what will be undertaken
- ask for feedback, which can be done in a variety of ways – see below
- implement the development identified by these processes
- use all opportunities, both formal and informal, to learn

## Reflective practice

It is important that you take time to consider your work and ways in which your practice or outcomes arising from your involvement have been effective or could have been different or improved. For this to be effective you should have sufficient time and focus to enable you to critically assess what you have done.

You can share what you learn from reflective practice with colleagues and provide observations from your experience to inform your personal development and that of the service. The aim is for you to develop an 'internal supervisor', so that you can:

- give your work a critical appraisal
- develop confidence in your skills
- make your practice more effective

The Youth Justice Resource Hub contains [examples of how reflective practice is used](#).

See also, this [example of reflective supervision](#) from Tower Hamlets Youth Justice and Family Intervention Service.

## How to get feedback for your own professional development

There are a range of ways in which you can obtain and receive feedback on your performance and about the operation of the service more generally (and your role in it). You should take enough time in discussion with your manager to assess feedback given to you and decide on actions for improvement with your line manager. Feedback can be obtained from:

- management and supervisory processes
- children's experience of the service
- panel membership
- external partners

## Management feedback

Management feedback can be provided through:

- regular supervision, discussion and reflective practice
- team meetings
- team learning and development days
- gatekeeping of reports
- quality assurance of AssetPlus (or other assessment and planning) documentation
- direct observations of practice
- management board views on the operation of the service
- inspection findings and information from other external sources (e.g. an independent evaluation)
- analysis of qualitative data on youth justice service performance which indicates trends and how the service is operating

If you would like management oversight and feedback of a particular assessment, intervention or other piece of work you have undertaken, it is important to ask for it even if it falls outside what would normally be routinely covered in your supervisory arrangements.

## Panel feedback

Discussions and actions agreed by panels and multi-agency meetings (particularly those managing children who present a risk of harm to themselves or others) may include critical analysis of how cases are managed; what has gone well; what has not and what could be done differently. This can assist in personal and organisational development and could arise from attendance at:

- risk of custody meetings
- internal risk management or Multi Agency Public Protection meetings
- case discussion reviews
- Compliance/Engagement Panels
- learning from critical case reviews

## How to get feedback from children

As a case manager, you need to provide children in the justice system with:

- reliability
- dependability
- responsiveness
- trust
- confidence

The knowledge and courtesy of practitioners and their ability to convey trust and reliability to the child is vital for positive engagement. The responsibility is on you to find positive ways to engage children, because positive relationships are central to achieving good outcomes for the child.

Children should be asked to provide feedback on the service they have received, both formally and informally through the following means:

- AssetPlus – the Voice of the Child section
- bespoke self-reporting tools specifically designed to obtain feedback from children about their experiences of the service e.g. [Viewpoint](#) or the [Outcome Star](#) where they can map their own progress (both are subject to licences for use)
- participation process established by the youth justice service (YJS), local authority or third sector
- (peer) mentoring or advocacy services
- complaints and compliments processes

[The Child First Pathfinder Evaluation](#), published by Ceredigion Youth Justice and Prevention Service might be helpful when considering some of the principles to adopt when obtaining feedback from children using youth justice prevention services.

There should be a consistent and appropriate way to ensure that the views of children are known and taken into account. This will help in the development and delivery of the service. Approaches should consider the:

- sensitivity of the services provided to meet the child's particular needs
- effectiveness of the work that was undertaken to support desistance
- child's safety and well-being and assistance provided to help them to develop their skills and strengths
- child's relationship with their worker and how they were supported
- extent to which they felt they made progress that could be sustained

This information should be regularly obtained and collated to feed back to staff and the management board on the operation of the service from children's perspectives.

The service may also want to consider whether it is able to go further in developing other opportunities for participation and co-creation, for example by:

- involving children in staff recruitment processes
- engaging children in the processes of reviewing and selecting the resources and interventions used by the YJS
- involving children in training opportunities for staff in YJSs or partner agencies such as the police
- asking children to engage in working groups to share their views on specific topics and initiatives
- developing a youth participation group

It is important that any activity is not tokenistic, that children understand their views will be taken seriously, that they receive feedback and understand how their views have been incorporated into plans for change or if not, why not. See also [resources developed by PeerPower](#) specifically for the youth justice sector.

### **How to get feedback from partners**

The youth justice service (YJS) should obtain feedback from a range of partners involved in the delivery of youth justice services. These will include:

- victims – asking for feedback on their experience of contact with the YJS; involvement in restorative activities and satisfaction with the overall process
- the local community – their experience of involvement in the work of the service e.g. on diversion panels or as Referral Order Panel members; involvement in identifying opportunities for reparation activity
- partner agencies – consulting with and involving key partners about service development and delivery including the police; health services; children's services and the local housing authority
- the inspectorate – you should implement recommendations for all YJSs from thematic inspections of services by His Majesty's Inspectorate of Probation - you should also be aware of findings from individual service inspections, and use these to develop your service
- the courts – there should be opportunities for magistrates and judges to give feedback on reports and other services provided by the YJS and on the progress of children who have received court orders
- your YJB lead for your area will have access to a range of data which can inform performance planning
- panels/multi-agency meetings – through attendance at Multi Agency Public Protection panels, Integrated Offender Management and other meetings with partners (e.g. children's services) who can provide information about individual children to inform how they are worked with
- the Youth Custody Service or secure estate – about placement decisions and progress or problems experienced whilst in custody
- the YJS management board – to understand the child's perspective and experiences

Where appropriate there should be a feedback loop back to stakeholders to demonstrate how their input has had an impact in shaping the delivery of services.

## How to contribute to service development

Whatever your level or degree of experience, you can contribute to improving your youth justice service (YJS), by:

- taking part in peer reviews of reports, assessments, interventions and case management
- giving constructive feedback to managers or colleagues on the development of policies and practice and their interactions
- taking part in working groups to develop specific areas of practice, or 'champion' particular initiatives
- acting as a 'buddy' or mentor to colleagues on specialised areas of practice
- identifying development opportunities for yourself and your colleagues and suggest ways these could be met
- reporting back to colleagues after attending a training course

## How managers can support staff to develop specialist skills

Working in justice services for children is a highly specialised area, and it is important that staff receive adequate training and support to develop the skills they need to understand the legislation, practices, processes and procedures which support the system. They should be able to ensure that there is congruence between the assessment and the plan put in place. They should:

- ensure that the plan is unique to the child
- balance welfare and risk considerations
- incorporate an understanding of child development in their interactions with children
- know when to request specialist assessments
- understand a wide range of more specialist procedures when they relate to safeguarding, managing children who pose a risk of harm to others and when managing children who are remanded or sentenced to custody

[The Youth Justice Board Learning and Skills Matrix](#) outlines the knowledge, skills and activities needed at different levels within the justice system and you can be used to assess the learning and development needs of individual staff and form a plan for the service as a whole. It covers:

- child and adolescent development
- engagement and communication
- assessment
- effective practice
- multi-agency working
- risk of reoffending and risk of harm
- transitions
- safeguarding

The [skills audit](#) works alongside the Matrix and is intended to help practitioners to reflect on their practice and identify gaps and targeted training needs.

Practitioners who provide a professional service to the courts will need specific training and shadowing opportunities to be able to fulfil the role effectively.

Practitioners who prepare reports for courts and panels will also need the skills to be able to assess, compile, analyse and present the information they have obtained from children and their parents/carers. Those new to report writing should receive feedback on their report writing to help them to develop their skills. Support can be provided through quality assurance processes, 'buddying' with a more experienced practitioner and in undertaking joint interviews, writing parallel reports, and getting feedback on assessments, these can enable thorough and effective learning. These can also assist with balancing welfare and risk considerations; incorporating an understanding of child development; if and when to bring in experts for a fuller assessment; and ensuring there is congruence between the assessment and the plan put in place.

Relevant courses and qualifications include the Youth Justice Effective Practice Certificate, certificate of higher education in youth justice and the degree foundation degree in Youth Justice. More information is on the [Unitas website](#).

A range of short online distance learning courses (Effective Practice Awards) are also available through the [Youth Justice Institute](#).

### **Management oversight in relation to quality**

The youth justice service (YJS) should have policies in place for ensuring the quality of case management. Practitioners should receive training to be familiar with the contents as part of induction and through refresher training as policies are revised and updated. The AssetPlus framework enables managers to decide on how they want to quality assure processes within the service and the levels of countersignature they require. This will help to maintain consistency and the overall quality of the service. You could quality assure processes by:

- all documents: or all prepared by specific case managers
- the level of assessed risk of harm (to the child and others)
- all cases where there is a specific offence category
- frequency of contact

Local decisions as to the level and degree of oversight required will depend on:

- the assessment of overall quality of case management
- feedback and actions identified from audits and inspections
- quality improvement processes set in local policies, the [youth justice plan](#) and the [national standards for children in the youth justice system self-audits](#)

If you are a line manager, you may undertake a range of day-to-day activities to ensure that work with children is of a sufficient quality. This could include:

- gatekeeping reports for court, Referral Order Panels etc
- ensuring that assessments are comprehensive and up to date
- discussing cases in supervision meetings to provide feedback on actions taken and guidance on next steps
- observing practitioners at work in one-to-one sessions with children, delivering interventions or acting as a court officer to give informed feedback on their practice
- dip sampling cases, either directly or using colleagues, peers, sector partners or independently commissioned consultants

- countersigning relevant sections of AssetPlus
- advising and guiding through discussions at panels/multi-agency meetings where risk of custody, public protection and safeguarding, case reviews and compliance/engagement are being discussed
- ensuring that wherever possible work undertaken with children is evidence based

### **How managers can improve quality**

You have a responsibility to recognise the strengths of individual staff members. This includes providing opportunities for them to develop the knowledge and skills they need to do their work effectively. You also need to provide practical and emotional support for staff who can be handling high and challenging caseloads.

It is vital that you feel confident in your ability to give honest and constructive feedback, including when this may be received with negativity or defensiveness. You may find that the following help you develop these skills:

- training
- management meeting discussions
- peer support within the service
- peer support from other local youth justice services and disciplines such as children's social care

You should clearly record:

- management oversight expectations in policies and procedures youth justice service (YJS) staff are required to follow
- supervision notes, which should be shared with the supervisee and kept as a record of discussions
- actions on individual cases, in the appropriate management oversight category on the information management system

If you are a line manager, you are responsible for providing advice and agreeing actions which need to be carried out to ensure that children are effectively supported.

This will include ensuring that:

- actions are completed within agreed timescales
- children receive appropriate and good quality interventions, advice and support
- the interventions are tailored to the needs of each child

You should ensure that discussions are not focussed on processes and systems to the extent that qualitative issues are not given sufficient attention. There should be a shared understanding of what 'reflective practice' means to your YJS, and staff should have the opportunity to consider the impact of their own feelings, assumptions and attitudes; and the connections with their actions; without criticism for doing so. If you are a supervising manager you need to create relationships of trust, honesty and respect, and understand emotions and the pressures staff may be facing. You should have good links with children's social care, so that there is a shared ethos of support for children in the justice system; and joint access to training and development opportunities.

### **The quality assurance tools that are available**

You should undertake systematic and in-depth audits of case work to assess and improve quality, by:

- undertaking full audits of various aspects of assessment, planning and case management work
- undertaking thematic audits e.g. responses to educational need and high-risk cases etc
- utilising the [Youth Justice Sector Improvement Partnership](#)
- undertaking statistical analysis which indicates how the youth justice service (YJS) is performing using local data and feedback from the YJB
- conducting self-audits of the national standards for children in the youth justice system

A full audit of a selected case would assess all aspects of case management from allocation and report writing, assessment and planning; to delivery of interventions and managing the end of the order or transition process. This can assist in producing development plans for particular practitioners or practice more generally. Resources which can help with this include:

- utilising locally devised tools and measures
- using the quality assurance tools and templates on the Youth Justice Resource Hub – including the [summary ethnic disparity tool](#)
- His Majesty’s Inspectorate of Probation’s Rules and Guidance documents: [Youth offending services inspection](#)
- commissioning external agencies which undertake auditing exercises
- Auditing the standards for children in the youth justice system, which includes operational strategic [self-assessments](#)

### **Thematic audits**

Thematic audits examine specific areas of practice such as intervention planning, or responses to certain types of offences (e.g. responses to serious violence), to assess the work the youth justice service is doing and whether it is effective. The YJB has several mapping tools which can be used to audit different elements of practice which are found in the [evidence and reports](#) section of the Youth Justice Resource Hub.

You may also want to consider commissioning an external evaluation of a particular aspect of your work.

### **Statistical analysis**

Your service reports to the Youth Justice Board on its performance against a set of Key Performance Indicators on a regular basis, as well as providing quarterly data and regular documents as agreed for grant compliance. Managers will be expected to ensure robust data collection and careful inputting so that information is accurate, and can be used to examine trends and patterns. The YJB counting rules are published on the [Youth Justice Resource Hub](#).

Exercises in statistical analysis inform your planning and service development. Youth justice services (YJSs) should undertake periodic analysis of the cohort of children they are working with as the composition of caseloads can change, as can the needs of the population as well as the types of crimes committed. For example, this could include analysing your cohort of children who reoffend to examine the age, sex, ethnicity and other factors which increase risk, the interventions provided and whether they have been effective or not and whether services need to change to be more responsive to current needs.

For more information see [how to understand the profile of children in your area](#).

Examples include:

- using the reoffending live tracker within the [Youth Justice Application Framework](#) document library to analyse patterns of reoffending and the YJS's response
- examining the congruence rates of pre-sentence reports to outcomes determined by the courts, to be able to discuss with magistrates any areas of variance or where outcomes were unexpected
- monitoring the diversity of children to examine whether any groups are over-represented compared to the local population, and to develop responses appropriate to their needs - this could include all children who are over-represented in the youth justice system or who have protected characteristics
- undertaking routine analysis of YJS activity to monitor levels of activity at different points in the system and trends over time

These should be reflected in the Youth Justice Plan and monitored by the YJS Management Board.

### **The Youth Justice Sector Improvement Partnership (YJSIP)**

[The Youth Justice Sector Improvement Partnership \(YJSIP\)](#) is a partnership between the YJB who fund it via a grant, [the AYM](#) who administer and co-ordinate it, and senior leaders in the youth justice sector who deliver it.

The YJSIP sector improvement offer includes peer review and bespoke peer support as well as coaching/mentoring and operational managers training to YJS in England and Wales. To apply for sector support, services need to submit an [application form](#), setting out what support they would like and the reasons why.

Applications are considered for approval on a quarterly basis at the YJSIP Programme Board. In addition to the sector 'offer', the YJSIP run several training events including:

- peer reviewer training
- leadership training
- coaching and mentoring
- an operational managers 'train the trainer' programme

## Section 10 - How to manage transitions

What you need to know when a child transfers from the youth justice service to an adult service and to Probation Service supervision. It includes information on the provision of education and health services in transitions processes.

### How to transfer a child to the Probation Service

When a child transfers from the youth justice service (YJS) to an adult service it is a critical time for them. You should consider what will make this a planned and smooth experience for them and what they need in terms of support and introduction to the new service. This includes:

1. Identifying at the earliest point children who are eligible for transfer and starting to prepare them for the process (usually at 17 years and six months old).
2. Developing a transition plan with the child and their family/carers; every child who transfers to adult services must have this as part of their sentence plan.
3. Highlighting in the transition plan their individual and support needs, strengths and interests; any areas with which they need particular assistance; and what the receiving service needs to know about the child.
4. Identifying anything which needs to be done to assist the child through the transition process and who will support them at each stage.
5. Working with the child and Probation Service to ensure there is a phased approach and planned introductions to new workers/supervising officers.
6. Discussing any queries the child has about the transition process, allaying any concerns and helping them to understand the expectations of the new service.
7. Offering continuity between what the child has been doing with the YJS and what they will do once under the supervision of the Probation Service
8. Sharing all relevant information about the child with the Probation Service before transfer, including the likelihood of harm to themselves and others; the views of the child and any concerns they have identified.
9. Reviewing each transition to ensure it is planned and conducted well.

You should work with the Probation Service to ensure that:

- the child's safety and wellbeing is maintained
- any public protection issues continue to be effectively managed
- their needs are understood by their new case manager
- the expectations of the new service are explained and understood by the child (and their family/carers)

They should have the opportunity to meet their new case manager prior to transfer as part of the familiarisation process.

You should also highlight if the child has experienced trauma and its impact on their ability to form relationships. This is likely to have an influence on how they develop new relationships and whether they will need any particular assistance to engage with the Probation Service and new workers.

If the child has been looked after and will become a care leaver, it is also important that their status is identified and communicated to the Probation Service. Care leavers should be identified in transition

processes to ensure they continue to receive the support to which they are entitled (from the local authority) and the help they need to assist them to make positive connections to adult services.

[Building Independence Through Planning for Transition](#) is a guide for practitioners supporting children to go through transitions from youth to adult services.

[The Joint National Protocol for Transitions in England](#) and the [Wales Youth to Adult Transition Principles and Guidance](#) have been developed to help YJSs and the Probation Service to establish local arrangements to manage the transfer process. They set out the key roles, responsibilities and processes YJSs and the Probation Service should follow. Both documents contain an appendix setting out how transitions can be trauma-informed and what services can do to support children ending their contact with one service and starting it with another.

### **How to know if a child is looked after**

A child who has been in the care of their local authority for more than 24 hours has 'looked-after' status. Whilst looked-after child remains the statutory description, 'child looked-after', child with care experience or 'child in care' are also terms which are used. A child looked-after is in the care of a local authority either through:

- a care order made by a court
- a voluntary agreement with their parent(s) to accommodate them

They may be looked after:

- in a children's home
- by foster carers
- with other family members

All Unaccompanied Asylum-Seeking Children are also children looked-after.

A child can also become looked after because:

- they have been removed from their parents or carers under an Emergency Protection Order and are subject to an Interim Care Order and care proceedings
- they have been removed from their home under a Child Assessment Order
- they have been removed to suitable accommodation under police protection ([section 46 Children Act 1989](#) and [sections 76 and 77 of the Social Services and Well-being \(Wales\) Act 2014](#))
- they have been remanded to local authority accommodation or custody because they have been refused bail
- they have been given a Local Authority Accommodation Requirement, or a Fostering Requirement attached to a Youth Rehabilitation Order

The general duty of the local authority is to act in the best interests of the child and to promote their physical and mental health and well-being. This duty underpins all activity by the local authority in relation to children looked-after. Every child looked-after is required to have a care plan which sets out what the plans for that child are and the professionals who will be involved in delivering each element. Plans are regularly reviewed and adjusted to take account of changing needs and circumstances.

A care leaver is a child who has been in the care of the local authority, including as a result of being remanded, for more than 13 weeks.

Legislation relating to children looked-after is contained in the Children Act 1989 in England (amended by the Children Act 2004 and the Children and Families Act 2014) and the Social Services and Well-being (Wales) Act 2014.

The AssetPlus assessment will ask you to identify if the child is looked after. This information is obtained from children's services.

### **What to be aware of when a child looked-after moves to a different area**

A child looked-after who the youth justice service (YJS) is supervising may move to a different area during the period of supervision. The choice of locality and type of accommodation they are placed in will be the decision of the local authority.

Case transfer is a critical period for children, it may bring uncertainty and placement in a location far from the usual place of residence. YJSs and children's services must work together to ensure continuity in the care plan and sentence/intervention plan. This is to make sure the child's welfare is properly safeguarded, continuity of existing court orders is maintained, and any public protection concerns are minimised.

Continuity of contact with the child is essential and they should be clear about how their YJS worker will stay in touch with them e.g. remotely, in-person or a combination of both and with what frequency.

Planning should also take place between the home YJS (In the area in which the child usually resides and which is holding statutory responsibility for the court order) and the host YJS (in the locality where the child is now placed). See the section on [case responsibility](#) for more detail on the practicalities of case management when a child moves to a new area.

### **The role of the YJS case manager when a child looked-after is transitioning from one type of accommodation to another**

In terms of the justice system, children are likely to move from one accommodation type to another because:

- the child is appearing in court, is likely to be denied bail and a remand to local authority accommodation is under consideration
- the youth justice service (YJS) is supervising a child looked-after who changes placement
- a requirement is made to reside in local authority accommodation or be subject to an Intensive Fostering Requirement as part of a Youth Rehabilitation Order
- the child is remanded or sentenced to custody

In some instances, accommodation will be required. The local authority is obliged to provide accommodation (see the [how to manage bail and remands](#) section), or must be consulted with if a particular requirement is under consideration as part of a Youth Rehabilitation Order (see [the requirements that can be attached to a Youth Rehabilitation Order](#)). In other instances the local authority may be changing the child's placement (e.g. in foster care, a children's home, supported lodgings etc) as part of their care plan; or the child acquires looked after status as a result of a custodial remand (see [what looked-after status means for children remanded to youth detention accommodation](#)).

The child's social worker and YJS case manager should keep each other informed of significant events, including any changes in service delivery or plans, or in the child's status. The local authority should also be made aware of any impact on the court order if a change of placement is being considered e.g. curfews, electronic monitoring and other activities the child is required to engage in as it may affect their ability to engage with court orders. Any change to an electronically monitored curfew address for a child would require a return to court as the condition would specify a curfew address.

It is good practice to have joint meetings involving the child, carer, YJS case manager and social worker to ensure the child receives an integrated service, understands why the changes are being made and how they will continue to be supported to engage with the YJS.

Many children who are looked after are highly likely to have experienced adverse childhood experiences and traumatic life events, such as bereavement, neglect or abuse. Trauma impacts on a child's ability to form attachments and bonds to others. The impact of change should always be taken into consideration and recognised that it can be unsettling and de-stabilising.

### **Who to involve in transition planning for children looked-after**

In order to support children looked-after through transitions youth justice services (YJSs) and children's services need to share information about the child, their family and their situation and circumstances. This includes relevant aspects of assessments, care and sentence plans and the requirements of court orders.

You need to be familiar with local processes and procedures to ensure the effective and timely transfer of relevant information between the YJS and children's services. You should also be clear about the roles of each in supporting the child. Both agencies should contribute to each other's planning meetings so that as far as is reasonably practicable, individual plans for children are aligned; and children understand who will be supporting them.

Each child looked-after in the justice system who makes a transition should have a tailored plan, promptly produced with the active engagement from the child and their family/carer and the local authority. It should set out the personal and structural support to be made available to the child to help them engage with their court order. It should also identify how they will be assisted to maintain contact with their existing network (and family if appropriate), especially if the placement is out of the area in which they normally reside. The likely length of placement will also determine:

- what the plan looks like
- whether it is short or long-term
- its impact on the child's existing relationships and how they will be maintained

All relevant agencies should work with the child, parents and carers to produce the plan. A plan should be in place for each transition including but not limited to the following:

- from home into residential or foster care
- to new or different placements
- to and from secure placements

### **The role of the YJS with a child with mental health needs**

The emotional and mental health needs of children who enter the justice system are assessed through AssetPlus; and may be supplemented with more specialist assessments. Many children will experience a range of emotional well-being needs as they grow up and progress through adolescence, and some will require more specialist mental health services. Part of the purpose of assessment is to establish whether

children require specialist support e.g. from Child and Adolescent Mental Health Services (CAMHS) or other therapeutic and health-related services.

The mental and emotional health section of Asset Plus might be completed by a specialist health worker in your team alongside or instead of the supervising worker. You may also have access to other specialists such as a forensic or educational psychologist to help determine whether the child's mental health is having a direct or indirect effect on their behaviour. Specialist staff may help determine what service the child needs and make a referral to the appropriate service. But every effort should be made to encourage the child to consent and understand why the referral is being made. If you are working with a child looked-after, you should be aware of what is in their care plan regarding their emotional and mental health and whether they are engaged with any services through the home local authority, to avoid duplication.

Children in the justice system can move between different tiers of health provision e.g. from working with the youth justice service (YJS) (providing advice and support, promoting well-being and identifying health-related needs) to CAMHS (providing specialist support to those with identified needs or diagnosed conditions) or to highly specialist mental health services (for those with the most severe mental health conditions). Children approaching 18 years of age may also transition to adult mental health services.

Children experiencing mental health problems (and conditions) are likely to be affected by factors associated with:

- their family and upbringing
- the environment they are living in
- the effect of adverse life events and circumstances and the ability to cope
- the impact of trauma and whether their attachment to others has become disrupted.

Substance misuse problems can also co-occur with mental health problems.

Children should be encouraged to express their views and identify what would be helpful for them. They may also have moved between various health-related services several times (and found it stressful). They are likely to need sensitive support to help them to explore their strengths and needs and be assisted to engage with health services and professionals of whom they may be suspicious. You should identify with them what the YJS can do to support them and help them to build the confidence to obtain the help and treatment they need. This includes helping to maintain motivation, particularly as access to health care provision and transition across health services may not always be immediate.

Putting children at the centre of a well-planned, integrated and supported transition enables them, and where appropriate those who care for them, to stay in touch with the agencies and professionals who look after them. Consequently, children are more likely to carry on with their treatment and continue to develop the skills to support self-management of their condition.

Ensuring a smooth transition for children with mental health problems from CAMHS (or to other health-related services) to agencies that are able to provide them with the care and support they need as they move into adulthood, will be dependent on effective joint working between all the relevant agencies. This in turn requires that professionals working within the different agencies have a good understanding of each other's roles and responsibilities in relation to these children.

It is a statutory requirement that the YJS has input from health services in the delivery of services to children and appropriate membership at the management board. It is the responsibility of the local authority in partnership with the health authority to determine who are the most appropriate

professionals. Children's access to mental health services should be monitored and any concerns about appropriateness and accessibility of services should be escalated to the YJS management board and local commissioners and providers to ensure children's needs are met and they have access to the services they require.

### **How to support a child transferring to adult health care services**

The transfer of health care for children into adult services can sometimes be difficult, as they may be faced with having to engage with different health professionals and move away from workers who have been supporting them for some time. Successful transitions are associated with:

- starting transition planning early and proactively involving the child and their family at all stages – with planned moves this can be six months in advance
- actively involving and consulting with the child and their family about what would work for them and encouraging them to guide their own care and support
- communicating with the child and their family about changes in arrangements, addressing and helping to alleviate anxieties and concerns
- taking into account sex, ethnicity and diversity, level of comprehension and understanding when considering what transition support is needed
- identifying a named worker who will support them through the process

This [Care Quality Commission in England report](#) provides advice on what can assist transitions processes to adult health services.

This [guidance](#) produced by NICE sets out what can be done to ensure children have a good experience of transition.

### **How to support a child in education transitions**

Education is an important factor in the prevention of offending or reoffending in children. During their education, children may face several transitional changes including:

- a change of environment
- new teachers
- a move to Special Educational Needs and Disabilities provision
- social groups and learning structure

Some transitions will be a natural process as they progress through education, while others will be a diversion from the normal passage of learning due to circumstances such as entry to the justice system. Children in the justice system will often, by virtue of that, experience more transitions which can often disrupt their lives as well as their learning and cause them additional stress and anxiety. They can also experience increased risk of being excluded or moved to Alternative Provision or a Pupil Referral Unit; and increased vulnerability, risk of exploitation and further offending.

It is important for youth justice services to be aware of the different transition points for children, to help reduce any negative impact caused by disruption to their daily lives.

### **The education transitions a child might experience**

There are several transitions that children in the youth justice system can experience. The following are some of the education transition points that children may encounter.

## **Year 6 to Year 7 (primary to secondary school)**

The transition from Year 6 to Year 7 is an important and often disruptive stage in the lives of children. It involves a completely new environment, new teachers, a change of friends and a more rigorous learning structure. These changes can cause anxiety for children and many will have some trouble adjusting, particularly where they are vulnerable. The risk of being excluded or moved to alternative provision may be increased, which in turn will increase their vulnerability and their risk of exploitation and further offending.

## **In-year moves**

There are a number of reasons a child may move schools during the academic year. Most will change schools because they are moving home. Others may be due to factors such as exclusion, managed moves and relocation for safeguarding purposes. This will often be a time of anxiety and distress and additional efforts should be made to help the child settle. Justice professionals should be in contact with the relevant school to share information to support the child.

## **Between school and alternative provision**

Some children may be transferred to alternative provision such as a Pupil Referral Unit due to behavioural issues or learning needs that schools are unable to manage. In most cases these transfers should be short term, and children should return to mainstream school as soon as possible. This will be decided between the provider and the school; but youth justice service (YJS) staff should be in regular contact to be aware of any issues and to challenge decisions where it is felt that the child is being held back. Where the child has been newly diagnosed with Special Educational Needs or Disabilities (England) or Additional Learning Needs (Wales), it is imperative that the [SEND guidance \(England\)](#) and the [Additional Learning Needs Code for Wales](#) is consulted.

## **Year 11 to post-16 provision**

Some children will choose to stay on in sixth form (if it is available) or go to college. Where they are remaining at sixth form in their school, they will still be attached to the school they attended but there will be a significantly different learning environment. Where they choose to go to college they will also be in a different location. Many of the children in the justice system will reach this stage with only a few or no GCSEs. This will make their entry to post-16 education more difficult. At this point the child's involvement in the justice system may also create an additional barrier. Where possible, YJS education staff should attend enrolment interviews and ensure that the child is aware in advance of disclosure rules and any information they will be required to provide.

## **Between custody and the community**

Children leaving custody are vulnerable and may face barriers when attempting to find suitable accommodation and education. They will also experience a significantly different education experience than when in custody. Resettlement planning should aim for as smooth a transition as possible to education provision in the community. Children of statutory education age in particular should always have allocated provision available after leaving custody.

## **Post exclusion return to school**

Children who have been excluded may have been out of mainstream education for a long period of time. Many children in the justice system have experienced long periods of exclusion. Attending education helps to provide structure and boundaries for children, and the longer they are away from education the more difficult it will be for them to re-engage. Exclusions, especially external, should be challenged wherever possible.

## **Elective home education**

Parents have a right to choose to educate children at home. In recent years there has been an increase in take up, including amongst children in the justice system. It is important that children receive a good standard of education in an environment where they are safe. Whilst many children educated at home may benefit from that experience, in some cases elective home education has been linked to vulnerability and criminal exploitation. If you are working with a child being educated at home, you should take special care in assessing their welfare and safeguarding needs.

## **What to be aware of when a child is moving through an education transition**

When children in the justice system move through an education transition, it is important to understand their needs and make every attempt to provide or request additional support.

Youth justice services should:

1. Be aware of the different types of transition and ensure the early identification of children who are moving through changes. This will help to address any barriers and additional anxieties are addressed in a timely manner.
2. Consult and work with the child and their family/carer to discuss their needs and to inform them of the specific transition process and possible barriers. Where appropriate, parents/carers should be involved in discussions about the transition to support the child's progress and engagement.
3. Develop and maintain contact with staff at relevant local education establishments and education and SEND teams (England only). This needs to be done in good time to enable support and to ensure any Education and Health Care Plans (England) and Individual Development Plan (Wales) are continued. You should discuss the needs of the child and escalate any concerns quickly.
4. Ensure that information is shared with custodial establishments so they can consider any education or training the child has engaged with in the community and, as far as possible, ensure continuity. If the child has special education needs/additional learning needs the establishment should also be made aware. The work undertaken with children in custody (educational or vocational) should be included in the planning and review process with the child and the establishment. Any records of achievement should be available to the child and shared with community providers on release.
5. Constructive Resettlement principles should be utilised for all children leaving custody. Resettlement planning should always try and ensure that there is continuity and progression between what has been undertaken in custody and the community and link children into education, training and employment provision on release. For more detail see the section on [custody and resettlement](#).
6. Where a child is at risk of being excluded, refer to the relevant guidance to ensure that the child and parents/carers are aware of the process and implications.

## Section 11 - Custody and resettlement

How to work with children in custody and plan for their future. It includes information on how to make resettlement constructive and apply this in practice. It also covers the different types of custodial sentence and the role of the youth justice service case manager.

### How to make resettlement constructive

Constructive Resettlement is an evidence-based framework for delivering personal and practical support to children in custody and after release. This helps to ensure that the support provided is good quality and will make a positive impact on their lives.

It can be a gradual process for a child to sustain positive outcomes after custody. It is a journey where they shape their identity in a way that promotes a positive and constructive future. If you are involved in the resettlement of a child, your main responsibility is to facilitate this positive identity development. This strength-based approach supports children to make positive contributions to society, creating safer communities with fewer victims.

The [Constructive Resettlement framework](#) will support you to meet the expectations of the [standards for children in the youth justice system](#). Specifically standard 4: In secure setting and 5: on transition and resettlement. It will also provide the evidence for [HMI Probation's resettlement policy and provision standard](#).

Early in a child's sentence, the secure resettlement practitioner, and the youth justice service (YJS) case manager should meet the child and their family or carer to [plan for their Constructive Resettlement](#). This should continue throughout their sentence; both in custody and on licence in the community. Practitioners and case managers should also plan for this work to continue after the order ends, particularly if on-going support is needed.

High quality relationships established with children and their parents and/or carers are critical for effective assessment and planning. You should [include the child and their family](#) where it is safe to do so because the responsibility for Constructive Resettlement lies with the adults, as well as the child.

Constructive Resettlement, is the practical application of the second tenet of [Child First](#), which centres around 'building a pro-social identity':

Promote children's individual strengths and capacities to develop their pro-social identity for sustainable desistance, leading to safer communities and fewer victims.

All work is constructive and future-focused, built on supportive relationships that empower children to fulfil their potential and make positive contributions to society.

### How to apply the Constructive Resettlement framework

Constructive resettlement is a framework to provide the personalised practical support a child needs to develop a [prosocial identity](#). This means that resettlement work should encompass both personal and structural (also known as practical) support.

Whilst personal support should always direct and inform the structural support required, so that the practical is personalised to the child, work on both can take place concurrently.

## Personal support

Individualised personal support is required to help the child to move on in their lives as well as develop goals and aspirations. Throughout the whole of the child's sentence, your work should centre around helping the child answer 4 key questions:

1. Who am I? You should explore the child's identity, and which elements of it discourage positive outcomes.
2. What are my strengths? You understand the child's strengths, interests and goals that can inform a pro-social identity.
3. Who do I want to be? You help the child prepare for a pro-social future self that they can develop and maintain.
4. How am I going to get there? You help the child plan the routes to their pro-social self and know what support is available.

You should work with the child throughout the planning process to help them to think about these questions, with an understanding that, initially, not all of these will be answerable by the child.

You should promote the child's strengths and encourage them to think of themselves in a positive, pro-social way, alongside providing the structural support they need to achieve their pro-social self.

When providing support, you should also follow [the 5Cs of constructive working](#). You should also explore [identity awareness](#) that covers how the child sees themselves, as well as how others perceive them.

## Structural support

Structural support is the practical support offered to a child so they can resettle in the community. You will need to identify and work with other agencies and professionals to ensure that this structural support is provided. For example, you will be required depending on their need, to assist them to access:

- accommodation
- healthcare
- education
- training, and employment
- social and constructive leisure activities

You should encourage other agencies to adopt Constructive Resettlement when working with the child and understand their role in assisting children to successfully resettle. To help you do this you could share some of the [resources available](#) to support practitioners with Constructive Resettlement.

## The 5Cs of constructive working

The 5Cs are the 5 main elements that characterise constructive working with the child. They can be used as a useful checklist for planning with the child and professionals supporting them.

The 5 main elements are:

1. Constructive – work is focused on identity development, future oriented, strengths-based, motivating.
2. Co-created – developed with and for the child.

3. Customised – each child’s identity journey is unique, recognising the importance of diversity.
4. Consistent – identity shift is the focus of all involved in custody from the start.
5. Coordinated – through effective casework and communication.

### **Constructive**

The overall objective of Constructive Resettlement is to help the child develop their identity. You should consider the purpose of all work with the child in custody and on release in relation to that objective.

This means that all support for the child should look to the future, rather than focusing on past behaviour. This will avoid underlining the pro-offending identity. The support you facilitate should motivate the child for change and ensure that the child is empowered to make positive choices (the more vulnerable the child, the more attention needs to be paid to empowerment). Everyone involved should always look towards positive outcomes rather than framing discussions around deficits.

### **Co-created**

A child’s identity is personal to them, and can only be developed by them, so it is crucial that they are involved in any planning.

This co-creation will help to ensure that the child considers the support as relevant to their needs and future, and so is more likely to engage with it. We know that everyday interactions are crucial to developing a child’s pro-social identity, so families and friends should be involved where appropriate. They can be helpful supporters in motivating and empowering the child, highlighting their strengths, feeding-back to the child on ‘who’ they are, and providing roles and activities which reinforce it.

### **Customised**

As every child’s identity and personal development journey is unique; their [Constructive Resettlement plan](#) and support needs to be individualised. Children should not be fitted to generic interventions. Personal characteristics (including ethnicity, gender, and sex) are important to a child’s sense of who they are and their place in the world, so considerations of these characteristics and how they identify themselves are essential in any support package.

### **Consistent**

Understanding and developing the child’s identity should be the focus of all practitioners working with the child in custody and the community. Where possible, professional support relationships should be stable in order to help build trust with the child and to better ensure consistent messages around their strengths and pro-social identity.

### **Coordinated**

Building the route to a pro-social self for the child is likely to involve several agencies, across sectors, so work should start early to broker support and ensure consistency in messages.

All agencies working with a child have a responsibility to be aware of who the child wants to be and the constructive developmental journey they are on (rather than focusing on the behaviour/risks to manage). This interagency working should ensure that support in the community is set up well in advance of release.

It is the responsibility of the youth justice service case manager and the secure resettlement practitioner to co-ordinate work with the child.

## **How to be 'identity aware'**

Everyone involved with the child in custody should ensure that they are 'identity aware'. This includes those:

- working with children daily
- assessing children
- making decisions about children
- undertaking interventions

Being identity aware means that you understand a child's identity. This will help you make the most of any interactions that you have with children and ensure you actively support their positive development.

Identity awareness includes:

### **Awareness of messages from the child about how they see themselves**

You should look out for messages about the child's own identity. It is important to be aware of the messages that the child is giving out about their identity to better understand how they see themselves, their place in the world, or who they might aspire to be.

### **Awareness of messages you are giving the child about how you see them**

You should also be aware of the messages that you and your colleagues are giving to the child about them and their place in the world. This is especially important when discussing their offending behaviour, so you do not reinforce that who they are is defined by what they have done.

Custodial settings, by their nature can reinforce negative identity perceptions, all of those working with children should consider how their words and actions may be used to reduce this impact. Similarly, it is important to avoid negative labelling when you discuss the child's needs or any public protection concerns.

## **How a pro-social identity is developed**

The building blocks for a child developing a pro-social identity can be seen as:

- activities
- interactions
- roles

Or AIR for short. It may help you to remember that for children to develop their identity, they need "fresh AIR"

These building blocks are interrelated and help children shape the way they see themselves in the world. For example, volunteering with a local charity can involve a child taking on a new role (e.g. as a team member), and have that potentially reinforced through interactions such as the manager telling the child they are team player who is making a positive difference. When developing resettlement plans with children, you should consider what opportunities are provided for this "fresh AIR".

## **The resources available to support Constructive Resettlement**

There are a growing number of resources available to support working constructively with children in custody and more widely. These include but are not limited to:

- The [Youth Justice Resource Hub](#) , which includes a wide range of practice examples and practical resources.

- [Using an Identity lens toolkit \(Hazel, et al\)](#) provides greater detail of the constructive framework, best practice examples and ideas for workshops with children.
- [constructive-resettlement.co.uk](https://constructive-resettlement.co.uk)– A web-based resource for practitioners including videos and other resources on the Constructive Resettlement approach and what that means for practice.
- [HMI Probation Youth Resettlement Effective Practice Guide](#) - Provides examples of effective practice in resettlement.
- [Beyond Youth Custody - Developing best practice in the resettlement of young people leaving custody](#) - provides detail on the evidence and research that underpins constructive resettlement as well as practical resources.

### What custodial sentences are available to children

A [Detention and Training Order \(DTO\)](#) is the sole option for the youth court to sentence a child to custody. It may also be given by a Crown Court. Normally half the sentence is spent in custody and the other half in the community.

- DTOs are available for children aged 12-17 years old (if the child is 12-14 years old, the order can only be made if they are a 'persistent offender' (as defined by legislation))
- the minimum DTO is 4 months, and the maximum is 24 months, the sentence imposed must be for the shortest time commensurate with the seriousness of the offence
- time spent on custodial remand will count towards a sentence
- a written pre-sentence report must be considered
- offence(s) must be so serious that custody is the only appropriate penalty, the court needs to state reasons why a YRO with ISS/Fostering cannot be justified

For the definition of a 'persistent offender' see [section 6.4 Sentencing Children and Young People, Sentencing Guidelines Council \(2017\)](#).

The Policing, Crime, Sentencing and Courts Act 2022 removed fixed lengths so that children can be sentenced to a DTO of any length between 4 and 24 months. Youth justice service case managers should consider the opportunities this flexibility provides and advocate for shorter sentences where appropriate and the timing would better enable a child to access opportunities on release. For example, to coincide with the start of the academic year.

Children serving a DTO between 8-24 months can be subject to early/late release, please see the [early and late release for Detention and Training Orders policy framework](#). You should assume a child will be released at their [early release date](#), if eligible, and plan accordingly.

You should also be aware that given time spent on remand counts towards the sentence the child may be released with a Detention Training Order from court, and you will be responsible for the child's supervision immediately.

### Custodial sentences under the Sentencing Act 2000

For more serious offences children can be sentenced to longer periods in custody under different provisions of the Sentencing Act 2000. These are only available in the Crown Court.

These include:

- [Section 250](#) for up to 14 years imprisonment

- Sections [254](#) and [258](#) which are extended or life sentences where the court considers a significant risk of harm to members of the public
- [Section 259](#) which is detention at His Majesty's Pleasure for a conviction of murder

### **The role of the Youth Custody Service in the placement decision**

The Youth Custody Service's (YCS) Placement Team is responsible for the placement of all children into custody. They place children who are remanded into custody or given a custodial sentence by a court.

The primary purpose of the Placement Team is to place children in the secure setting best able to ensure their safety and support their individual needs. The team has an important role in making the best use of the resources and capacity available to children in secure settings.

At the time of placement the YCS Placement Team will make an assessment of the most appropriate establishment for the child. The areas considered in this placement decision includes but is not limited to:

- any welfare concerns or other vulnerabilities
- age
- sex and gender
- home location

Please read the [placing young people in custody: guidance for youth justice practitioners](#) to find out more about this process.

How the youth justice service case manager supports the placement decision, [Hide](#)

As a youth justice service case manager, you are responsible for notifying the Youth Custody Service's (YCS) Placement and Casework Service about a child who may receive a custodial outcome. This should be done at the earliest possible stage and you should use the Custody sections of AssetPlus and complete these fully.

You should consider if the child has any needs or vulnerabilities which should inform the placement decision. If you have a view as to the most appropriate type of placement for them, you should communicate the reason for this.

These may include:

- Special Educational Needs and Disabilities (SEND) (Additional Learning Needs (ALN) in Wales)
- physical or mental health needs
- emotional wellbeing
- proximity to family or other support networks
- safety of the child

It is important that this information is received promptly by the YCS's Placement Team to enable the secure setting to effectively safeguard the child. If, due to workload pressures or court timescales, it is necessary for you to send this after 5.30pm, contact must be made with their out-of-hours service to ensure that the documents are uploaded on the same day.

The YCS placement officer will then identify the most suitable available placement for the child. They will make the final decision on location and type of secure establishment having considered all available information, including the view of the YJS.

Both agencies share the responsibility for ensuring the placement can maintain the child's safety and wellbeing. If you disagree with a placement decision, please refer to guidance on [how to appeal placement and placement review decisions](#)

### **What a YJS case manager should do when a child is given a custodial sentence**

When a child receives a custodial sentence, the youth justice service (YJS) case manager should see the child in court following the outcome. You should explain the outcome to the child, what that means for them and what will happen next. You should also assess how the outcome may have affected their safety and wellbeing. Any immediate concerns in relation to the child's safety must be communicated to court custody staff as well as the prison escort service and the Youth Custody Service's (YCS) Placement Team.

As the YJS case manager, you must ensure that the completed Custody Module of AssetPlus, including the Post-Court section, is fully completed and sent to the YCS's Placement Team. This information must be sent through Connectivity immediately after sentencing. This is to enable the YCS's Placement Team to make the correct placement decision that day. You should also [call the YCS Placement Team](#) to confirm that they have all the information they need.

For more detail, see the [YCS's guidance on placing children in custody](#).

YJS case managers should inform the children's services department within the local authority and information should be shared with the secure establishment to ensure that the child's education status and any particular needs are identified.

The first things to communicate are the:

- duration of sentence
- likely timing of sentence
- location of placement

If a child that is looked after by a local authority is sentenced or remanded to custody, YJS case managers must inform the child's social worker.

The YJS case manager must immediately inform the child's parents or carers once the custodial placement is confirmed. This must be within 24 hours. You should be sure that the parents or carers are clear on how they can contact their child and have the relevant information on visiting them such as details of the [assisted visit scheme](#).

### **The types of secure accommodation available to children**

The following 3 types of secure establishment are currently available for children:

- [Secure Children's Home \(SCH\)](#)
- [Secure Training Centre \(STC\)](#)
- [Young Offender Institution \(YOI\)](#)

## **Secure children's homes**

The Youth Custody Service (YCS) has contracts with 8 secure children's homes (SCHs) nationally providing approximately 110 places. The YCS commissions 5 to 24 beds in each establishment, and they are for children between the ages of 10 and 18.

Some SCHs also accommodate children who are placed there on welfare grounds.

The YCS places children in the following SCHs:

- Adel Beck Secure Children's Home - in Leeds
- Aldine House Secure Children's Home - in Sheffield
- Aycliffe Secure Centre - in County Durham
- Clayfields House Secure Unit - in Nottingham
- Hillside Secure Centre - in Neath, South Wales
- Lincolnshire Secure Unit- in Sleaford, Lincolnshire
- Barton Moss - in Manchester
- Vinney Green Secure Unit - in Bristol

## **Accommodation**

All children in SCHs have their own bedroom with a phone, sink, toilet, and shower. SCH bedrooms are designed for single occupancy, in small domestically styled living units with kitchens and communal social spaces.

The layout, size of units and how they mix boys and girls varies SCHs adopt a therapeutic approach using an integrated framework of care principles. This is an evidence-based response to child trauma or for those presenting with complex needs.

## **Security and safeguarding**

All safeguarding procedures are overseen by the SCH's Local Safeguarding Children's Partnerships, except for Hillside in Wales which is overseen by the local authority.

## **Arrival and first night**

When a child first arrives at a SCH, they will be able to contact a family member by phone. This could be quite late in the evening, depending on the time they arrive.

They will also be given a pack of essentials including food and toiletries.

Upon arrival, all children are subject to welfare interactions and observations every 5 minutes, and this is reduced to 15-minute observations following risk assessment and safety planning.

## **Phone calls for children in SCHs**

Every child in a SCH in England has a phone in their room and can make outgoing calls to anyone on their [approved list of friends and family](#). They are given credit for calls when they arrive. This is different for children placed into Hillside Secure Children's Home in Wales where children will have access to handheld phones, but these are not located inside each bedroom.

## **Staffing**

The staff to child ratio varies however is usually 3:4, 2:3 or 1:2 per unit (the highest in custody, which allows more time out of their rooms).

All residential care staff must complete the 'QCF level 3 in children and young people.'

## **Governance**

SCHs are subject to twice yearly inspection by Ofsted according to criteria within the Social Care Common Inspection Framework (SCCIF).

At Hillside (Wales) there is an annual inspection by CIW (Care Inspectorate Wales) and Estyn who inspect education provision.

All SCHs have a head teacher and schools embedded within the home.

## **Secure training centre**

There is currently only 1 secure training centre (STC) with 80 commissioned places. It is for children between the ages of 12 and 18.

Oakhill STC in Milton Keynes is operated by G4S which is a private organisation.

## **Accommodation**

All children have their own bedroom with a phone, sink, toilet, and shower. The STC bedrooms are designed for single occupancy, in small, domestically styled living units with kitchens and communal social spaces.

## **Security and safeguarding**

All safeguarding procedures are overseen by Local Safeguarding Children's Partnerships. Social workers are directly employed by the contractor running the STC.

## **Arrival and first night**

When a child first arrives at the STC, they will be able to contact a family member by phone. This could be quite late in the evening, depending on the time they arrive.

They will be given a pack of essentials including food and toiletries. Upon arrival, the child will receive a range of assessments to form their welfare check which will include those by a nurse or doctor.

## **Phone calls for children in a STC**

Every child has a phone in their room and can make outgoing calls to anyone on their [approved list of friends and family](#). They are given credit for calls when they arrive.

## **Staffing**

The staff to child ratio is a minimum of 3:8 per unit. All new staff must complete a 7-week training programme prior to working in an STC.

## **Governance**

The services to be provided are outlined within the [STC Rules 1998](#).

HM Prison and Probation Service contracts spaces within STCs. The service specification forms part of this contract and details the range of services to be provided from admission through to release. The service

specification details the education and regime to be offered, the health services to be provided, accommodation standards, security arrangements, staffing and management responsibilities.

Prison Service Instructions (PSI) do not apply to the STC however many of its policies/rules are derived from PSIs.

Ofsted is responsible for leading joint inspections alongside HMI Prisons and the Care Quality Commission (CQC). They report on the conditions and treatment of children in custody.

### **Young Offender Institutions**

There are approximately 850 commissioned places at the 5 Young Offender Institutions (YOIs), ranging in size from 60 to 288 places. YOIs are for 15 to 18-year-olds and, except for Wetherby's Keppel unit, only take boys.

The Youth Custody Service places children at the following YOIs:

- HMYOI Cookham Wood – in Kent
- HMYOI Feltham – in London
- HMPYOI Parc – in South Wales, operated by G4S, a private company
- HMYOI Wetherby – in Yorkshire
- HMYOI Werrington – in Staffordshire

### **Accommodation**

All children in YOIs get their own room with a sink and toilet, all rooms additionally have telephones, and some have showers.

### **Security and safeguarding**

All safeguarding procedures are overseen by the Local Safeguarding Children's Partnerships and the dedicated social worker function is staffed by the local authority.

### **Arrival and first night**

When a child first arrives at a YOI, they will be able to contact a family member by phone. In some circumstances (such as [restricted status](#) establishments may need to contact the family member on behalf of the child.

They will also be given a pack of essentials including food and toiletries.

Children will see a 'first night officer' who will check how they are feeling and discuss immediate health and wellbeing needs.

### **Phone calls for children YOIs**

Every child in a YOI has access to a phone on their unit and most YOIs have phones in their rooms. Children can make outgoing phone calls to anyone on their [approved contact list](#). To make phone calls, children will have to top-up their PIN account. They are given credit to do this when they arrive.

## Staffing

The staff to child ratio is 1:12 per unit/wing (the lowest among custody for children) some specialist units, such as the Keppel unit in Wetherby, have different ratios.

Youth justice workers must complete a 12-week training course off site, as well as training and shadowing on site before they can start working at a YOI. They are required to complete a youth justice qualification as part of an apprenticeship scheme when working with children.

## Governance

YOIs are governed by [HM Prison and Probation Service Policy Frameworks, Prison Service Orders and Prison Service Instructions](#). HM Inspectorate of Prisons is responsible for leading joint inspections alongside Ofsted and the Care Quality Commission.

All YOIs are inspected against the [4 healthy prison tests](#) and reports are submitted on the conditions and treatment of children in custody.

## Complex needs units

Some YOIs contain smaller complex needs units. They are the Keppel Unit (HMYOI Wetherby) and 2 Enhanced Support Units (HMYOI Wetherby and HMYOI Feltham).

They are for children with complex needs who cannot be safely accommodated within a YOI with an enhanced care plan.

These complex needs are likely to include a combination of additional vulnerabilities such as physical or mental health needs, learning disabilities, speech, language, and communication needs.

The units are a national resource and children can be referred into them.

## How to make an effective resettlement plan

A plan for the future should be available for all children from the point at which they enter custody. This is called their resettlement plan, which can be thought of as an interface between the child and Asset Plus e.g. a physical document in a child friendly format that the child is able to keep and update. Resettlement plans should reflect the Constructive Resettlement framework to meet the best interests of each child and should be strengths based and forward looking.

The youth justice service (YJS) case manager has overall responsibility for the child's resettlement plan. There should be a single plan for both the child and professionals. This supports the professional's accountability to the child and parents/carers. It is important that the plan makes clear what the responsibilities and actions for the professionals and the objectives for the child are. Plans should be informed by the child's AssetPlus assessment, and information from the plan should be used to update the Pathways and Planning section of AssetPlus.

The resettlement plan must cover the whole of the child's sentence, or time on remand, including the elements to be delivered in custody and those in the community. It should also include transition arrangements to an adult establishment if the [child will turn 18 whilst in custody](#).

The plan should be a live document which evolves with a child as they, and the professionals working with them, gain greater insight into their life, strengths, identity, and future aspirations. Within the resettlement plan it is important to acknowledge and address any specific challenges such as experiences of trauma, peer association or transition from custody which may prevent the child from making positive

changes. In alignment with the Child First approach, throughout the plan there should be focus on the child and how it supports their positive identity development.

For the plans to be effective, they should include tools that will enable children to visualise their lives in a positive way having overcome these challenges. Although technology may not always be available in custody, secure resettlement practitioners should make use of the range of media available, to enable children to contribute to developing interactive plans that they can engage with. Plans may also include links to [local and national resources](#) that will help children.

Within the early stage of a sentence, practitioners should not attempt to map out every moment ahead of the child. Initial plans should include activities to explore what matters to the child and should seek to answer the questions identified under [personal support](#) such as who am I? What are my strengths? Who do I want to be? How am I going to get there?

The plan should consider opportunities for [“fresh AIR”](#); those ‘Activities, Interaction and Roles’ that will allow the child to explore their identity and try out different ones. The plan should also include the [structural support](#) needed to develop their future self as well as personal support and how to address any barriers to it. For example, are there any specific personal or cultural needs.

Plans must be developed in line with the [5Cs](#), and in particular objectives must be co-created with the child. The 5Cs should be used as a checklist to ensure that the plan is constructive.

Additional advice on plans for children in the youth justice system can be found in the [how to work with children](#) section of this guidance.

Children should be given a copy of their plan. A digital version should be stored on the [Youth Justice Application Framework](#). Whilst the YJS case manager has overall responsibility for the plan it is the responsibility of the secure resettlement practitioner to ensure that this is updated whilst the child is in custody. Post release it is the responsibility of the YJS case manager.

### **The responsibilities of the youth justice service case manager to children in custody**

As a youth justice service (YJS) case manager you have responsibility for the overall case management of the community and custodial elements of a child’s order. You also have joint accountability with the custodial establishment for the child’s welfare, safeguarding and both the [personal support](#) and [structural support](#) elements of the Constructive Resettlement framework.

The YJS case manager’s responsibilities can be grouped under two headings:

1. [Constructive Resettlement](#)
2. [Welfare](#)

You are expected to fulfil these responsibilities in alignment with the principles of Child First.

### **The Constructive Resettlement responsibilities of the YJS case manager**

#### **Producing the child’s resettlement plan**

As a youth justice service (YJS) case manager, you have overall responsibility to [produce the child’s resettlement plan](#). This should be in line with the Constructive Resettlement Framework and in co-operation with the Secure Resettlement Practitioner and the child.

### **Co-ordinating the work with the child and other agencies**

You have a critical role to play in co-ordinating the work with the child to provide both the personal and structural support they will need based on their resettlement plan. It is your role to work with other agencies to prepare for the child's release. You should refer children to other agencies, such as children's services, housing, or substance misuse services to meet their health and welfare needs. You have a particular responsibility for brokering the engagement of other services within the local authority, such as children's social care.

### **Attending and chairing resettlement meetings**

You should attend and chair [resettlement planning and review meetings](#). You should also attend any joint meetings with children's services regarding children who are in care or care-experienced and this should happen throughout the custodial part of the sentence.

### **Regularly assessing the child's development**

You should regularly assess the child's development throughout their period of time in custody. This is to ensure that resettlement plans are relevant and are assisting the child.

### **Understanding the structural barriers**

You should understand the structural barriers that the child might face on leaving custody and the support they will need to overcome them. For example, their accommodation needs or education, training and employment or constructive leisure.

### **Planning for where they will live**

Planning for where children will live on release is critical to effective resettlement and should start as soon as they enter custody. Where this includes returning to a family or carer's home consideration should be given to what support the family/carer and child need to maintain their relationship whilst the child is in custody. All children in custody must know at least 6 weeks prior to their release where they will be living.

### **Working with custody**

You should work with custody to ensure that appropriate interventions and activities are provided to support the child's positive identity development as identified in their resettlement plan and facilitate the child's positive reintegration into their community. You should also consider if there are activities in the community that may be suitable and if they can be delivered in custody or on Release on Temporary Licence.

### **Effective use of release on temporary licence**

You should support the child through planning and facilitating effective use of temporary release. You also have responsibility to find and secure suitable opportunities for release on temporary licence to support the child's resettlement.

### **Involve the child in decision-making**

You should ensure that the child is involved in decision-making and informed of any updates in relation to their resettlement.

It is important to ensure that they fully understand their arrangements, conditions on release and any record of these is provided in a format applicable to the child's speech language and communication needs.

### **Advocate for the child**

You should act as an advocate for the child whilst they are in custody. Providing constructive challenge to other professionals working with the child on how they are meeting the child's needs and supporting them with their constructive resettlement. This could include the secure setting or children's services within your local authority.

### **Planning for education, training, employment and constructive leisure**

You have responsibility for working with the child and other professionals to consider what the child will do when released from custody. You should consider what opportunities exist and the organisations your service works with that can both effectively support the child with their constructive resettlement aims and provide '[fresh AIR](#)'. This should not be limited to education, training and employment (ETE) but may also include constructive leisure, meaning organised activities that support the interests of the child e.g. sports teams, gym memberships, and creative arts workshops. Where release dates do not line up with start dates, for training courses for example, you should consider what options exist for release on temporary licence.

### **Consider the individual needs of the child**

You also have a responsibility to consider the individual needs of the child. It is important that these characteristics are not mischaracterised as 'risk'. Areas to consider include:

- Special Educational Needs and Disabilities (SEND) (Additional Learning Needs (ALN) in Wales)
- physical or mental health needs
- emotional wellbeing
- experience of trauma, abuse, or exploitation, and family alienation

It should be recognised that the experience of custody can be traumatising, and support may be needed to help the child manage this trauma.

### **The child's ethnicity**

Evidence, such as that summarised in the YJB's publication [understanding racial disparity](#), shows that some children, in particular those who are from a Black, or Mixed ethnicity background are more likely to experience structural inequalities

This could be in the form of racism and discrimination, including from the criminal justice system. This can also heighten levels of traumatic stress.

The Youth Custody Service has published this [practical guide](#) on how to support children from different ethnic, cultural, and religious backgrounds.

### **Children who are looked after by the local authority**

Children who are [looked after](#) by the local authority or those with care experience may need additional personal support to avoid negative stigma and to develop a positive sense of self. Their living arrangements, as for all children, must be confirmed at least 6 weeks prior to release.

### **Sex and gender**

Girls have different needs and experiences to boys and support should be adapted accordingly. Support should also be adapted for children that identify as transgender, or non-binary.

For more detailed advice on how to adapt your work for children based on their needs, please see the [How to work with children](#) section of this guidance.

The welfare responsibilities of the YJS case manager, [Hide](#)

The home local authority and the secure estate have joint accountability for the child's welfare.

As a youth justice service (YJS) case manager, your welfare responsibilities include:

### **Carrying out assessments of a child's safety and wellbeing**

You should carry out assessments of a child's safety and wellbeing using AssetPlus.

This must be a dynamic process, with re-assessments taking place at regular intervals during the sentence as well as following any changes in the child's circumstances.

### **Ensuring that children's needs are met**

You should work with the secure estate to ensure the child is:

- leaving their room and having social contact their peers every day
- able to participate in physical education every week
- able to spend time outside everyday
- attending suitable education and learning opportunities
  - Children should receive a minimum of 15 hours education or training a week. You should confirm what the child is actually receiving as opposed to what is timetabled or offered.
- being cared for fairly and if needed provided with support to enable them to have equal access to services and activities available to other children
- having regular suitable contact with family, carers, and friends
  - sentenced children should get at least one visit every two weeks, with a weekend visit every four weeks
  - remanded children should get at least three visits a week
  - Visits should be at least an hour
- able to access healthcare if required, both physical and mental
- having regular healthy meals
- able to feel safe
- able to practice their religious beliefs

You should assure yourself that this is the case by regularly asking the child and the secure site.

Where this is not the case you should seek to understand why, what plans are being made to enable it to be and, how you can support the child and the site with those plans.

For example, if you know the child is being kept separate from their peers, you should ask the site:

- why they are separated
- what is being done to reintegrate them

- what they are doing to enable the child to continue to access activities such as education
- how the child's mental and physical wellbeing is being supported

You should also consider whether you need to take any additional action to support the child, such as by increasing the frequency of your contact.

Finally, you should confirm that the child, their parent/carer, and social worker, if they have one, understands what is happening and why.

### **Ensuring children are aware of the support available to them**

It is important to ensure that children are aware of the support available to them from the YJS, the establishment and services which may operate within it.

These may include advocacy services, the Independent Monitoring Board if there is one, charitable organisations that operate at the site, and the health care provision that is available including mental health support and substance misuse services.

### **Addressing safety and well-being concerns**

Your role includes addressing any concerns about a child's safety or well-being arising from any contact with them or that you are made aware of. You should know when and how to escalate those concerns within the YJS and the establishment using the Youth Custody Service's [matters of concern process](#). Additional information and key contacts on matters of concern can be found on the [Youth Justice Resource Hub](#).

### **Maintain regular contact**

You have a responsibility to maintain regular contact with the child through a variety of mediums, such as by phone and in-person. Please see [how to maintain contact](#) with children in the secure setting for further guidance.

### **Contact with parents/carers**

You must maintain contact with the child's parents or carers, this maintains a positive and trusting relationship, which will ease the transition on release.

You should maintain regular contact with parents/carers outside of resettlement planning meetings. Whenever a child's circumstances change in custody you should ensure their parent/carers are informed.

### **Maintain external relationships**

Maintaining links to the community is important for children in custody. If a child has worked with a social worker, youth justice practitioner or other professional in the community the local authority should make arrangements for them to continue to support the child in custody, rather than transferring responsibility to a different practitioner.

### **How to maintain contact with children in the secure setting**

#### **Frequency of contact**

At a minimum you should have face to face contact with the child on a monthly basis with more regular contact by phone or virtual visits.

You should agree with the child how you will contact them and how often. This will usually mean visiting at least monthly to see them in person alongside more regular contact by phone or email. This is your

responsibility, and you must not leave contact with the child solely to other specialist workers. The secure setting must support and facilitate this contact and you should be familiar with the arrangements for accessing visits and maintaining contact with the child.

You will need to confirm with the secure resettlement practitioner how the child is able to contact you and what options there are for making remote contact with the child, including by phone, virtually and email.

Your initial contact with children in custody should address how they are coping and adapting to the environment.

### **Phone contact**

The secure sites have different approaches to phone contact. You will need to speak with the secure resettlement practitioner to confirm the details for that site.

In some sites the YJS phone number may need to be added to the child's contact list. The children may have an account with phone credit which is charged for calls.

You should confirm if the child will be charged for calling you, who you can call to speak with the child and who the child can ask to arrange a phone call with you.

You may wish to consider if the local authority should reimburse children for the cost of calls to them if they are charged and how to do that.

### **Other forms of contact**

You should confirm if virtual contact will be possible through schemes such as purple visits and how that needs to be arranged. As well as what options may exist for contacting the child in writing by email or post.

Video conferencing is not appropriate for all welfare checks as this may not be private and may prevent children from sharing their concerns. Remote contact may also prevent practitioners from picking up on non-verbal cues. Children may be less likely to raise concerns about their treatment in the establishment when not face-to-face.

### **In-person visits**

You should confirm the professional visiting arrangements with the site, how you are able to book visits and any rules around what you can bring into the secure site to support your work with the child.

Whilst regular contact can be maintained through virtual visits and telephone calls for practical purposes (e.g., where there is a considerable distance from the home local authority to the secure site), you should continue to also schedule face-to-face visits at least monthly.

### **To raise concerns about visits**

If you are having issues with visiting the secure site to see the child, for example, arranging appropriate times to do so, or the site not permitting entry on the day of a visit please inform the relevant secure resettlement practitioner and their manager to ensure they are aware of the issue. This may mean you need to phone or email them from outside the site.

If you are still experiencing issues with access, then contact [the YCS Reducing Reoffending Team](#) who will be able to take action on your behalf to resolve the issue

## **Differentiating between welfare and resettlement planning visits**

You have a responsibility to maintain contact with the child to assess their wellbeing and safety, these are your welfare responsibilities to the child. In addition, you will need to have more formal contact alongside the secure resettlement practitioner for the child's resettlement planning meetings. Whilst there is inevitably some crossover between these roles, it is important to provide space and time for both separately. You should not attempt to meet welfare responsibilities during more formal resettlement planning meetings.

## **The role of the resettlement practitioner in secure settings**

A resettlement practitioner in a secure setting is assigned to work with and safeguard a child during the custodial part of their sentence or during their remand. These practitioners have a range of job titles in different secure settings; for the purpose of this guidance, we use the term 'secure resettlement practitioner'.

The secure resettlement practitioner has a joint responsibility with the youth justice service (YJS) case manager for providing both the [personal](#) and [structural support](#) elements of the Constructive Resettlement framework.

You are expected to fulfil these responsibilities in alignment with the principles of Child First.

As a secure resettlement practitioner, you should:

- work with the child to help them form, understand, and achieve the objectives and targets in their resettlement plan - remembering that the child needs to own the plan and be at the centre of its development
- ensure that the child's resettlement plan is developed using the 5Cs of the Constructive Resettlement framework
- provide opportunities for ["fresh AIR"](#)
- co-ordinate the work of colleagues and partner agencies in the secure setting to support the child's constructive resettlement, ensure that colleagues within the secure setting work together and information is shared effectively
- maintain effective communication with the YJS
- ensure that the child has access to and understands information on complaints procedures and the advocacy service that is available
- ensure that the child knows about the rewards and sanctions scheme and the appropriate positive behaviours expected within the secure setting
- communicate concerns about the child's safety using the establishment's processes to both relevant internal teams and external stakeholders
- keep case records updated, using case management systems including, AssetPlus, and the Youth Justice Application Framework
- ensure that the YJS, parents/carers and external parties are kept up to date concerning any serious incidents no later than the next working day
- act as the key contact for the YJS, parents and carers, and all other relevant professionals involved in the case, and facilitate their access to the child whilst in custody
- support arrangements for release on temporary licence to support a child's resettlement
- support the transition of children to an adult establishment during their sentence
- act as an advocate for the child within the establishment and with external agencies

- provide constructive challenge to the child's YJS on how they are meeting the child's needs and supporting them with their constructive resettlement
- assure yourself that the responsible agencies are making the necessary preparations for the child's release and that referrals to external services are being made as required to support the child - from start of sentence and monthly thereafter

You also have a responsibility to consider the individual needs of the child to ensure that the child is treated fairly. You should assess and put in place the additional support a child requires to ensure equality of opportunity and to remove/minimise any disadvantage associated with a child's protected characteristics.

You should make sure that all staff working with the child are aware of any changes they will need to make in the way they work to allow equality of access and opportunity within the secure site.

For more detailed advice on how to tailor your work to the diverse needs and experiences of children, please see the [How to work with children](#) section of this guidance.

Secure resettlement practitioners should continually liaise with the YJS case manager and other agencies to ensure that information regarding the child's needs is shared and updated on case management systems. This is particularly important if any new needs or concerns emerge whilst the child is in custody.

### **The responsibilities of a home local authority to a child in a secure setting**

This section should be read in conjunction with the [Children's social care national framework](#) which is the statutory guidance on the purpose, principles for practice and expected outcomes of children's social care.

Local authority children's services have responsibilities to children from their area in custody if a child is either looked after by them or entitled to support from them, for instance as a care leaver or 'child in need'.

### **Responsibilities towards in custody with looked-after status**

Children in custody may have looked-after status because they are subject to a care order or by virtue of being remanded to custody. Section 104 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 confers looked-after status on all children remanded to custody.

Children with looked-after status in custody should receive the same quality of care as all other children looked after by the local authority. The local authority has a duty to visit, have contact with, and arrange appropriate advice and other support for these children. It will be the responsibility of an appointed representative of the local authority, usually a social worker, to:

- keep in touch with the child
- assess their needs and ensure these are being met
- ensure their care and support plan, or detention placement plan (in the case of children who are looked after only by virtue of being on remand) is up to date and maintained

In both England and Wales, an appointed representative of the local authority, usually a social worker must visit the child who has looked-after status:

- within a week of entering custody
- every six weeks for the first year

- every three months after that

Additional visits should also take place if reasonably requested by the child, custodial establishment, YJS or where there are particular circumstances that require a visit.

The responsibilities to children with looked-after status who are sentenced, and all children remanded to custody are determined in England by the Children Act 1989 and in Wales by Part six of the Social Services and Well-being (Wales) Act 2014.

[The Care Planning, Placement and Case Review \(England\) Regulations 2010](#) and same titled [2015 regulations for Wales](#), make provision for the care planning of children with looked-after status.

For England, further detailed guidance on local authorities' responsibilities towards children with looked after status in custody is outlined in Chapter 8 of [The Children Act 1989 guidance and regulations Volume 2: care planning, placement and case review \(July 2021\)](#).

For Wales, the [guidance for joint working arrangements](#) provides further information on the responsibilities for visiting and supporting children in custody.

It covers how children's services and youth justice services can work together to do this. It also explains the legislative differences in the looked-after status of children in Wales.

### **Responsibilities towards children formerly with looked after status in custody**

The [Children Act 1989: former looked-after children in custody](#) is the statutory guidance for local authorities and their responsibilities to children who lose their looked-after status when sentenced to custody.

Children who were accommodated by the local authority under section 20 of the Children's Act will cease to be looked after during their time in custody. However, the local authority may continue to have a duty to visit them as a child formerly with looked-after status. To understand your responsibilities to formerly looked after children custody please refer to the statutory guidance: [Local authority responsibilities towards former looked after children in custody](#).

In England, [Section 23ZA of the Children's Act 1989](#) outlines the duty of local authorities to ensure visits to, and contact with, children formerly with looked-after status.

Some secure settings have dedicated social workers based within the establishment. Their primary role is to identify children who have experienced care and liaise with home authorities to ensure they are able to access their entitlements and support. They can also provide support with arranging where the child will live when they return to the community. They are also responsible for liaising with the child's social workers and facilitating access to the child.

If a child is required to be transferred to an adult establishment, their social worker must continue to be involved in the transition planning and provide ongoing looked after or leaving care support.

The status of care leavers should always be recorded and made known to the receiving establishment. This is to ensure that they continue to receive their entitlements. It is the responsibility of the secure resettlement practitioner to ensure that the following considerations are fully communicated to the adult establishment and inform the decision of which establishment they should move to:

- welfare
- desistance needs
- safeguarding concerns
- voice of the child

### **How local authority social workers and YJS case managers should work together to support children who have experienced care**

This section should be read in conjunction with the [Children's social care national framework](#), the statutory guidance on the purpose, principles for practice and expected outcomes of children's social care, and, [Working Together to Safeguard Children](#), the statutory guidance to multi-agency working to help, protect and promote the welfare of children.

Throughout the time a child is in custody and on release, their social worker and youth justice service (YJS) case manager will work together to ensure there are effective joint planning arrangements.

When a child first arrives in custody the local authority social worker and YJS case manager should meet to agree how they will dispense their duties to the child. They should ensure that the support they offer complements each other and avoids confusing the child.

They should also consider how they can make use of a single plan for the child's time in custody and on release that will provide the information they both need to update their individual plans and case management systems.

This includes taking account of the timing of visits and whether these should be staggered to provide more regular contact for the child with the local authority. Social workers and YJS case managers should also be in regular contact with each other without the child to ensure a consistent approach.

YJS case managers and local authority social workers may find it useful to formally note their decisions around contact and planning. This could be as part of a memorandum of understanding for how all professionals should work together to support the child.

### **Resettlement meetings**

Resettlement meetings should take place throughout a child's sentence both in the secure setting and following release into the community.

The purpose of resettlement meetings is to review and update the child's resettlement plan.

### **Attendance**

Review meetings involve the child, their parent, carer, or social worker if appropriate, the secure resettlement practitioner, and the youth justice service (YJS) case manager.

### **Purpose**

Professionals should use resettlement meetings to praise achievement and acknowledge a child's progress. They should also identify and address the child's needs, vulnerabilities, and any barriers they may be experiencing.

Professionals should collaborate with the child and their family to ensure that the resettlement plan aligns with the child's personal needs and goals. If there are any changes to the child's circumstances or needs, the plan should be adapted accordingly.

Resettlement meetings are also an opportunity to update the child on the progress professionals working on their behalf have made. Professionals should review their own progress against their objectives within the child's resettlement plan. They should hold each other to account and make it clear to the child and their family/carer what has been achieved and what they will do next.

Professionals should highlight where there may be barriers to the structural support the child will need on release and develop contingency plans in case the preferred option is not possible.

### **Release planning**

Arrangements for the child's release should be discussed at the first review meeting and planned for on an ongoing basis. This will help to ensure that if any issues arise there will be enough time to respond and plan.

Arrangements for the child's release should be in accordance with the child's resettlement plan and identified routes to their future self and will include:

- accommodation
- how the child's relationship with family (including their own child if this is the case) or carers and friends will be supported during the sentence
- employment, training, education provision, constructive leisure
- release on temporary license opportunities, should be planned for and agreed upon
- access to benefits and to health services including their GP as well as any specialist services e.g. Children and Young Peoples Mental Health Service or substance misuse support
- arrangements for records to be transferred from the secure establishment to the community

Children should be informed of the agreed arrangements for reporting to their YJS case manager on release including location, time, and the frequency. Professionals should be mindful that the child and their family or carer may have apprehensions around their release and should seek to understand and support them.

Children should be involved in reviewing their own [licence conditions](#). Practitioners should ensure that the child is clear about the expectations being placed on them. Children should also know how to access the support they may need post release.

### **The information to make available for resettlement meetings**

Information to inform resettlement planning meetings should be compiled by the secure resettlement practitioner and may include:

- the child's resettlement plan
- the views of the child and the work done with them on the four questions of personal support
- any work undertaken with the child in the community prior to entering custody
- any relevant specialist assessments such as a mental health or sexual offending assessment
- looked-after status and details of the child's social worker
- speech, language, and communication needs, learning disabilities or difficulties
- mental, emotional, or physical health concerns
- substance misuse issues
- any cultural needs

- the views of other professionals working with the child
- any specific structural barriers that the child may need support with on release, such as accommodation, access to careers advice, referral to Child and Adolescent Mental Health Services.
- the status of the child's relationship with their family carer
- details of any support the child or family is receiving during their time in custody and in re-establishing those relationships on release
- restorative work with victims or in the community
- any requirement for the child to move to an adult establishment, and/or the Probation Service if reaching 18 during the sentence and when this will occur
- if available, their SECURE STAIRS formulation
- suitability for early release
- whether a Home Detention Curfew will apply
- early or late release arrangements
- licence conditions or notice of supervision – which aim to support the child in the community whilst keeping them and the public safe. This should include requirements that may be required to keep victims safe.
- safeguarding arrangements
- opportunities for release on temporary licence
- parole hearings and reviews
- updates from other professionals working with the child
- the child's individual learning plan
- education and health care plan

Where this is the first meeting since the child arrived in the secure setting, the youth justice service case manager must also provide full and up-to-date AssetPlus assessments to secure settings at the point of the child's entry into custody.

### **The responsibility for arranging resettlement meetings**

Whilst in the secure setting resettlement planning meetings are arranged by the child's secure resettlement practitioner, who will be responsible for inviting the youth justice service (YJS) case manager as well as the child's parent/carer or their social worker if required.

Post-release, they should be arranged by the YJS case manager, who may invite the secure resettlement practitioner with the agreement of the child.

The secure resettlement practitioner is responsible for arranging logistics and taking and circulating notes. The YJS case manager is responsible for chairing the meeting.

During review meetings, the resettlement plan should be updated with the child. After the meeting AssetPlus should be updated by the secure resettlement practitioner.

The responsibility for updating AssetPlus, [Hide](#)

The AssetPlus framework is used jointly by community and custodial services to support assessment and the delivery of targeted interventions to children.

Following resettlement meetings, AssetPlus should be updated by the secure resettlement practitioner. Secure resettlement practitioners should ensure that any new evidence collected from these meetings is incorporated into the AssetPlus assessment and that the YJS case manager is notified of these changes.

In the community this is the responsibility of the YJS case manager.

To find out more on when and who should update Assetplus in other scenarios, please see the [AssetPlus Joint Working Protocol](#).

### **How to set the frequency of resettlement meetings in custody**

Every child is different and the length of sentence they receive, their proximity to release and how recently they entered custody should all be taken into consideration when setting the frequency of planning meetings. The frequency does not need to be consistent but does need to be planned and agreed with the child to meet their needs. Children should always know when their next meeting is scheduled to take place.

Every child must have an initial planning meeting within the first 10 days of entering custody. A second resettlement meeting should take place a month later. Resettlement meetings should continue on at least a quarterly basis. There should also be meetings at least 3 months prior to release, 6 weeks prior to release and in the last 2 weeks prior to release.

The frequency of meetings should align with key milestones in the child's resettlement plan such as:

- when interventions or courses end
- when target dates for confirming critical information for the child's release have been set
- when circumstances change in custody or the community

In addition, it is expected that regular informal meetings will take place between the child and their secure resettlement practitioner within the secure setting.

### **How professionals should work together for the child**

This section should be read in conjunction with the [Children's social care national framework](#) and [Working together to safeguard children 2023](#).

Constructive Resettlement requires a multi-agency approach. However, a range of different professionals all working with the child at the same time can be uncomfortable and confusing for the child and may prevent them from being able to share their views or concerns.

To avoid this, the child should not be expected to attend meetings and hold relationships with a wide range of practitioners. Instead, practitioners should meet regularly separately to the child. These meetings, informal or formal, can be used to hold each other to account and ensure work is aligned with the child's resettlement plan. The secure resettlement practitioner and youth justice service (YJS) case manager should work to broker communication between the wider professional group and the child.

Usually, it will be best for the child if only one or two practitioners (often those with the best rapport with the child) regularly meet with them. This will always include a representative of the child's home local authority. The multi-agency team should still be seen by the child as having an important role in supporting the practitioner.

When sharing information about a child, professionals should be aware of the need to ‘translate’ information for non-specialist professionals. This includes avoiding professional jargon and giving a clear account of what the information means for the child. This is of particular importance between secure and non-secure professionals who may have different understandings of what some words mean based on their context.

Prior to the resettlement meetings taking place, the secure resettlement practitioner should ensure that updates are provided from other professionals working with the child so that the child is aware of their progress. The secure resettlement practitioner should also update the other professionals on any changes to the plan and the decisions made after the meeting. In addition to the YJS case manager, these professionals may include the:

- social worker for the child
- education or careers worker
- representative from the local authority education department if the child has an Education and Health Care plan
- child and adolescent mental health worker or other health professional
- accommodation provider
- independent visitor, advocate, or mentor
- translation services, where this is necessary for the child or their parents or carer
- other relevant professionals

We recommend that a clear memorandum of understanding is put in place to address how all the professionals within the establishment, the local authority and wider stakeholders will work together to support the child.

For further statutory guidance see the [Children’s social care national framework](#) and [Working together to safeguard children 2023](#).

### **How to manage communication and information-sharing**

To successfully support a child throughout the child’s time in custody regular communication and exchange of information is vital. Following these simple rules can help support the clear exchange of information:

1. When sharing information about the child with other professionals, you should explain what that information means for the child, e.g., what is the impact for them.
2. When receiving information about the child you should consider what the new information means for the child and how you work with them, e.g. does anything need to change.

To support the child and their parents/carers and plan for successful resettlement the following people will need to maintain communication with each other:

- youth justice service (YJS) case manager
- secure resettlement practitioner
- allocated social worker
- other key professionals

Any change in circumstances or significant events, especially pertaining to the safety or wellbeing of the child or others, must be communicated within the above network as soon as is practical.

If the child has been involved in a safeguarding incident, the details should be communicated by the secure setting to the YJS case manager within 24 hours or the next working day. Safeguarding referrals from within custody are made to the establishment's host local authority to investigate. There may also be pathways in place to enable referrals to be made directly to children's services for an initial assessment to be carried out.

The secure site, host local authority and any other organisations working with the child have specific responsibilities to safeguard and promote their welfare. These responsibilities can be found in [Working together to safeguard children](#), which also provides additional guidance on information sharing.

Case management systems, the Youth Justice Application Framework and [AssetPlus](#) must also be updated with details of the incident and resulting actions.

### **How to address concerns around partnership working**

Where there are concerns or issues around partnership working that may be hindering or delaying work to meet the child's needs, you should initially attempt to resolve this directly with the other professionals in an open and respectful manner.

If professional differences are unable to be resolved, there are different options to address concerns depending on your role:

#### **Youth justice service (YJS) case manager or other YJS staff**

If you are a YJS case manager or other YJS staff, you should raise concerns to your manager, who will use their own line management routes, including, if necessary, the head of service and the management board to ensure that action is taken.

If your concern is in relation to the quality of care or provision that a child in custody is receiving, then you should raise this with the establishment in the first instance. If you are not content with the response received from the establishment then this concern can be raised through the [Youth Custody Service's \(YCS\) matters of concern process](#).

Please [read this guidance](#) if your concern specifically relates to visits.

#### **YJS head of service**

If you are a head of service and the allocation of a release placement is not provided by children's services, you should raise this with the director of children's services immediately, keeping in mind that post-release accommodation needs to be arranged no later 6 weeks prior to release.

You should continue to raise your concerns where necessary to ensure suitable arrangements are in place. There should be an established protocol with your local children's service setting out the roles and responsibilities and an agreement on who is responsible for which actions when making resettlement arrangements and timescales for completion.

## **Secure practitioner**

If you work in a secure setting and feel that an individual child's resettlement needs are not being met by other services within the establishment, you should raise this with your manager who can use their own line management routes and representation at relevant meetings to ensure that action is taken. If your concern regards a local authority, it should be addressed in accordance with the YJS complaints procedure.

### **How to organise children's contact lists**

An important part of Constructive Resettlement for children in custody is enabling them to maintain and nurture supportive relationships with the people in their lives at home and with their youth justice service (YJS) case manager. Contact lists are an important part of supporting these relationships, however, this needs to be balanced against other concerns.

All contact lists for children in custody need to be approved by both the YJS and the custodial setting based on the principle of encouraging supportive contact with appropriate and approved individuals. The child should provide the names and contact details of any family members and other people with whom they would like to maintain contact within the community. Details of their relationship to them and the reason they want to contact them should also be provided. These details should be passed to the YJS. The YJS will confirm the details of these persons and the appropriateness of the contact will be decided. Given the importance of these contacts every effort must be made to review them as quickly as reasonably possible.

Where the requested contact is another child, the YJS should contact that child's parent or carer to gain consent for the contact. In cases where a child in custody wants to contact a child who is looked after by a local authority, initial contact should be made with the social worker. The YJS police officer will also be able to assist in ensuring that a suggested contact is not a victim or potential victim and that they have not been involved in offending behaviour with the child in custody.

Where the suggested contact is not known directly by the child in custody the assumption should be that this contact will not be permitted except in exceptional circumstances. Where the suggested contact lives in an area outside of the home area, the YJS case manager should liaise with local YJSs to ensure that the contact is safe for the child. Custodial settings should not authorise additional contacts without this being approved by the YJS. Though the final decision on appropriateness of a contact is the responsibility of the setting.

### **How to support release on temporary licence (ROTL)**

Release on temporary licence (ROTL) is a valuable tool to support resettlement.

ROTL is an opportunity for children to leave the secure setting for a specific reason.

Subject to a risk assessment, there are few restrictions as to how ROTL is used so long as it is purposeful, built around the Constructive Resettlement needs and aspirations of the child, and safeguarding measures put in place where necessary.

Children can find re-adjusting to life in the community after custody difficult and may find coping with the adjustment disorientating. With that in mind ROTL should be utilised wherever possible to bridge the gap between custody and community. ROTL supports the child to integrate back into their local communities, prior to their release date. The option of ROTL should be discussed at each resettlement planning and review meeting, so that it is always actively considered for the child. If suitable opportunities are identified every effort should be made to advocate on behalf of the child to recommend this happens.

As a youth justice service (YJS) case manager, you have a responsibility to identify and support appropriate ROTL opportunities. You should work with the secure resettlement practitioner to provide the necessary assurance to the establishment that ROTL can take place. When children are placed in secure sites far from their home ROTL back to that area may be harder to facilitate and not practical for some types of activity, in these situations, opportunities local to the secure site should also be explored to support the child's resettlement.

Below is a list of example uses for ROTL. It should be noted that this is not an exhaustive list and all opportunities that may support a child's individual Constructive Resettlement journey should be explored. The child's needs should be considered, if they need structural support accessing these activities this could be facilitated by the relevant professionals who will work with them once back in the community. These should also include activities to support engagement with their parents/carers:

- taster days in places of employment, school, colleges, or training providers
- undertaking a college or training course
- maintaining family ties
- compassionate visits (e.g. funerals)
- housing interviews
- visiting home or release accommodation to become familiar with it
- getting to know the local area in which they will be living post-release, particularly if it will be new to them e.g., the location of the local supermarket/doctors/college in relation to where they will be living
- registering with a GP
- probation interviews
- job searches and interviews
- meeting with a careers adviser
- opening a bank account
- meeting with the YJS case manager or other professionals in a non-custodial setting
- opportunity to use internet-based IT in a supervised environment (in line with services provided by public libraries which include a range of 'parental security' features)
- appointments at Jobcentre Plus and applications for benefits
- opportunities for constructive leisure activities as identified in their resettlement plan
- personal challenge, achievement and development
- programmes such as the Duke of Edinburgh's Award Scheme
- restorative justice and community restoration projects work experience

### **How to request a transfer or placement review**

In some instances, children may need to be moved to a different secure setting. Children may be moved to best ensure their safety and wellbeing or that of others, as well as to meet their resettlement needs.

The Youth Custody Service (YCS) carries out placement reviews to decide whether a transfer is required for a child.

As the youth justice service case manager, you can ask for a transfer if the child's:

- placement is not supporting their or others safety and wellbeing
- placement is not supporting their resettlement needs
- circumstances change

To request a transfer, you should read the [Placement Review Guidance](#) and then:

- convene a multi-disciplinary meeting to establish how the child can be supported safely
- complete the [Placement Review Form](#) (MS Word Document, 95.3 KB)
- refer to the [Guidance and Tips](#) (MS Word Document, 72.8 KB) document for support on completing this form.
- email it to the Placement Review team at [YCSTransfers@justice.gsi.gov.uk](mailto:YCSTransfers@justice.gsi.gov.uk)

Other people can ask for a transfer but only the YJS and/or staff at the setting where the child is placed should contact the [YCS Placement Team](#).

All transfers should be discussed at a multi-disciplinary meeting which, as the youth justice service case manager, you will be required to arrange and chair. You should consider how the child can be best supported to meaningfully engage with this meeting. For example, some practitioners may provide written or pre-recorded submissions to avoid overwhelming the child with the number of practitioners present.

In exceptional circumstance where a transfer needs to take place urgently to protect the safety and wellbeing of the child or others the YCS Placement Team may conduct an urgent review. In these cases, they may request the required information directly from stakeholders.

In all cases the YCS Placement Team makes the final decision in the best interests of the child after carefully considering all the information available and opinions stated.

### **What to do if a child turns 18 during the custodial element of their sentence**

If a child turns 18 while in custody then you should follow the Youth Custody Service's [guidance on transitions to Adult Custody](#).

The secure resettlement practitioner should review the child's sentence type and age to identify if they will need to be considered for transition to an adult establishment during the custodial element of the sentence. The secure resettlement practitioner is responsible for informing the youth justice service (YJS) case manager, child and their family or carer if they will be considered for transition to an adult establishment during their sentence. If it is agreed that a transfer to an adult establishment will take place, the Probation Service must be involved with and participate in the planning arrangements. The YJS case manager should ensure that the child is aware of the transition of responsibility from YJS to probation if it is taking place.

Planning for transition should be discussed at the review meeting. It should be specific to the setting – in some settings the move is within the site; others will be to a different establishment.

The secure resettlement practitioner should keep the child informed about plans to transition to an adult establishment. Both the secure resettlement practitioner and YJS case manager should prepare the child for transition and discuss any of their concerns. The YJS case manager should make sure that parents or carers are kept informed throughout the process. The secure resettlement practitioner should ensure that the child understands the differences between children's and adult secure settings.

It is good practice to arrange and facilitate a visit from a staff member in the adult secure setting as part of the preparation for the transition.

This will help to explain to the child what to expect, describe the regime and explain safeguarding procedures in the adult establishment. In the absence of this, the secure resettlement practitioner and YJS case manager will be responsible for preparing and supporting the child in the lead up to transition to the adult estate and for providing information about the new arrangements.

Please refer to the [Joint national protocol for transitions in England](#) and [Youth to adult transition principles and guidance for Wales](#) for guidance on transitioning case responsibility from Youth Justice Services to the Probation Service. The guidance for Wales includes information on how to make transitions trauma-informed and to help children with beginnings, endings and engaging with new workers and services.

November 2022 update: the adult estate is currently facing significant pressure on capacity. To support the system-wide response, in November 2022, Ministers made the interim decision to move away from the practice of automatic transition to the adult estate by an individual's 18th birthday, instead transitioning them up until their 19th birthday. This temporary policy remains in place at present.

## **What to do if a child is transferred**

### **Secure resettlement practitioner**

For planned transfers you must notify the child, their parents/carer, local authority social worker, and youth justice service case manager of the planned transfer date and update them as soon as reasonably possible if this changes.

Ahead of any agreed transfer, it is the responsibility of the sending establishment staff to make sure that the receiving establishment has received all relevant information about the child.

Once a transfer has taken place, urgent or planned, you must notify the child's parents/carers within 24 hours, for children looked after by a local authority you must notify their social worker. You must ensure that any concerns from the parent or carers are communicated to the receiving secure setting and the [Youth Custody Service's Placement Team](#).

If the transfer has been made as a result of an urgent review that has not involved the YJS case manager, then you must notify them as soon as you are able and at the latest within 24 hours.

### **Youth justice service (YJS) case manager**

For planned moves if you are the YJS case manager, you must update, the child, parents/carer, social worker and any relevant local authority practitioners such as wider children's services and education on the outcome of the multi-disciplinary meeting and placement review.

You should also update the local authority practitioners when any move actually takes place. At latest this should be within 5 working days of the move having taken place.

### **The YJS case manager's responsibilities for early release**

Children given a Detention and Training Order (DTO) of 8 months or longer may be eligible for consideration for early release.

As a youth justice service (YJS) case manager, you should always plan with an assumption that early release will be granted if possible. When a child needs accommodation on release, as a YJS case manager, you should make sure the child's social worker understands that this will need to be available for the early release date. All children must have accommodation confirmed 6 weeks prior to their release date. This includes children who will be released on their early release date. If circumstances have prevented accommodation being confirmed at 6 weeks, early release may still be possible if suitable accommodation is confirmed within 4 weeks of the early release date.

To understand eligibility and for further information please refer to HM Prison and Probation Service's guidance for [Early and Late Release for Detention and Training Orders](#).

As the YJS case manager, you will need to update AssetPlus with an assessment of the likelihood of reoffending and risk of serious harm to the child or others, these risks should be named and be specific rather than general. You should notify the secure resettlement practitioner when this information is updated. You must be content that the safety and wellbeing of the child can be safely managed during the early release period. Where necessary additional measures may need to be put in place to mitigate and manage specific concerns.

The final part of the assessment includes a Home Circumstances Report which you must complete. This is a specific requirement for early release, though may be used in other circumstances such as a release on Home Detention Curfew from a Secure Children's Home. For more detail on what a Home Circumstances Report should contain please refer to paragraph 4.38 of the guidance on [Early and Late Release for Detention and Training Orders](#).

### **Evidencing good progress for children presumed unsuitable for early release**

For children serving DTOs for certain serious offence-types, whilst there is a presumption against early release they are not completely excluded from its consideration.

These children may still be eligible for early release if professional judgement determines that they have made exceptional progress against their resettlement plan. Where this is the case, you must explain it to the child at the initial and subsequent resettlement meeting.

The YJS case manager and secure resettlement practitioner should provide the child with opportunities to exceed the targets on their resettlement plan and explain how the child is able to do this. They should also ensure that progress is recorded.

### **Reaching a decision on early release**

The decision for or against early release must be reached as an agreed position with the YJS, local authority care team and secure setting. If an agreement cannot be reached it should be referred to management level at both the secure setting and the YJS. The final release decision is the responsibility of the delegated authority of the Secretary of State, that is, in:

- Secure training centres (STC) and secure children's homes (SCH)
  - the Youth Custody Service's (YCS) Release and Resettlement Team makes the final release decision for STCs and SCHs.
- Young offender institutions (YOIs)
  - where there is a presumption in favour of early release the responsibility sits with the Governor or Controller - however, where there is a presumption against early release the YCS Release and Resettlement Team is responsible

## **Communicating the early release decision**

In instances where an application for early release is denied, the secure setting, youth justice service (YJS) and the child should be notified in writing. This letter should include the reasons for the application being denied.

As with all written communication to children care should be taken to ensure it is understandable by a child and takes account of any communication or special educational needs. Please see the guidance on [how to adapt your approach for speech language and communication needs and neurodiversity](#).

As the YJS case manager you should ensure that prior to the child receiving the decision in writing the outcome is discussed with them by either yourself or the secure resettlement practitioner. You or the secure resettlement practitioner should confirm the child understands the outcome and the reasons provided for that decision. The child should also be made aware of their right to appeal. As the YJS case manager you are responsible for sharing the decision with the child's parents/carers. If a child decides to opt-out from an early release date, you must liaise with the secure establishment to identify the reasons given.

## **The Home Detention Curfew**

The [Home Detention Curfew](#) (HDC) scheme is the early release mechanism for children serving sentences of detention under section 250 of the Sentencing Code. It allows for children to be released up to 6 months before their conditional release date. Children must spend a minimum of a quarter of their sentence or 30 days in custody – whichever is greater.

The resettlement practitioner should verify the HDC eligibility date against the sentence calculation and ensure this information is shared with the child, family/carer, social worker if they have one, and the YJS case manager.

Children in the following categories are excluded from consideration for the HDC scheme and will be released at the sentence halfway point:

- those serving a sentence of 4 years or more
- those who have previously breached an HDC
- those previously recalled to custody on a long sentence

For further details around home detention please refer to the [Home detention curfew](#) guidance.

## **How to use licence conditions and notices of supervision to support Constructive Resettlement**

Most children who receive a custodial sentence will be subject to a licence or a notice of supervision on release. A notice of supervision is for children sentenced to Detention and Training Orders (DTOs) or serving less than 12 months under section 250 of the Sentencing Act, while a licence is for children not covered by a notice of supervision.

Both the licence and the notice of supervision set out the conditions attached to the child's release, but the notice of supervision refers to these conditions as 'requirements'. Both are enforceable and are attached to the community element of the order. All children released on supervision are expected to comply with 9 standard conditions/requirements; these are the same whether released on a NoS or licence and are set out in [Licence conditions and Notice of Supervision \(NoS\). 4: Standard conditions](#). The aim of these conditions/requirements is to facilitate the child's successful resettlement into the community.

An electronically monitored curfew is a mandatory condition for those who are subject to early release on a DTO, or under s250 of the Sentencing Act 2020. See the Youth Custody Service's [Licence conditions and Notice of Supervision \(NoS\) requirements guidance](#) for more detail.

The youth justice service (YJS) case manager must also consider any additional conditions/requirements which are necessary and proportionate to maximise the child's opportunities for successful resettlement in the community and to support the child and public's safety and wellbeing. The YJS case manager has a responsibility to consult other stakeholders including the Victim Liaison Officer or YJS victim worker to understand what conditions may be necessary to safeguard the victims.

It is more constructive and effective if children voluntarily engage with activities, and they should actively participate rather than just attend. Practitioners should consider if it is beneficial to the child to compel attendance at an activity via licence conditions/NoS requirements. If as the YJS case manager, you believe that the child should complete a specific intervention then you should work with the secure establishment to deliver these whilst the child is in custody in the first instance rather than waiting for release and mandating through a licence condition. Secure resettlement practitioners should support you to work with the establishment to facilitate these interventions.

There are a range of licence conditions approved by the HM Prison and Probation Service for use with adults; any of these conditions may be used for children, but the degree to which they are appropriate for children must be carefully considered.

The assessment of the need for additional conditions/requirements is a collaborative process between the YJS, the secure setting and the child, led by the YJS case manager. The secure resettlement practitioner and YJS case manager should aim to reach consensus with each other and the child on which, if any, additional conditions/requirements will be proposed. Requests for additional conditions/requirements for children placed in YOIs are assessed by the establishment's governor. Requests for children placed in an STC or SCH will be forwarded to the Youth Custody Service's Sentence and Release Team for assessment and approval. The agreed licence conditions/NoS requirements must then be recorded in the Leaving Custody module in AssetPlus by the secure resettlement practitioner.

All additional licence conditions/NoS requirements should be discussed and considered in collaboration with the child; you should make clear how they can support their positive identity development on release. You should also explain that some conditions are standardised and ensure children fully understand their implications. Children will need to be given an official copy of their licence conditions or notice of supervision on release. The language may not be clear or understood by the child. You should consider whether a second document could be given to them which explains the conditions in terms they understand. If the YJS or secure site has access to speech, language, and communication specialists, they may be able to advise on how best to do this. Please also see this guidance on [how to adapt your approach for speech language and communication needs and neurodiversity](#).

Care should be taken to ensure conditions are reasonable, manageable and do not set the child up to fail. As a YJS case manager, you should ensure that children who turn 18 before or during their release on license understand that if they breach their license or are recalled to custody, that they will serve any custodial time in an adult prison.

For further information please read the [Licence conditions Policy Framework](#).

## How to ensure that the licence condition is proportionate

The Youth Justice Board strongly recommends that [Intensive Supervision and Surveillance \(ISS\)](#) is not used as a licence condition.

Intensive Supervision and Surveillance is an important alternative to custody. However, the evidence shows that it is not effective in supporting children post custody, and may encourage, rather than reduce, future offending behaviour. Intensive Supervision and Surveillance is therefore unlikely to ever be appropriate or proportionate as a licence condition.

As a youth justice service case manager if you are concerned about the safety of the child and/or members of the public this should be mitigated by the use of well-considered licence conditions. These, with careful work with the child, can be used to provide a proportionate approach to maintain safety in the community, and address any specific concerns directly.

## How GPS location monitoring can be used for children

GPS location monitoring may be applied as a condition/requirement for licences/ notices of supervision for children in some circumstances. For further guidance and the relevant criteria please see [Licence conditions and Notice of Supervision \(NoS\). Section 7: Electronic monitoring.](#)

When considering GPS location monitoring the youth justice service (YJS) case manager has a responsibility to ensure there is a clear basis and objective for its use. There should also be clarity around how it would support a child, for example, there may be instances where giving a curfew to a child may provide a reason for them to avoid their peers. As with all licence conditions the YJS case manager has a responsibility to consult other stakeholders including the Victim Liaison Officer or YJS victim worker to understand whether GPS location monitoring is necessary to help safeguard the victim.

Where GPS location monitoring is applied to a child's licence, the youth justice service case manager should work with the secure setting to ensure careful consideration is given when designing any exclusion zones to ensure they support the child to live safely in the community and safeguard victims, without unnecessarily preventing the child from accessing the support they need as part their constructive resettlement plan.

For example, a child may have to travel through one area to reach another, to visit family or to attend an education provider or a YJS office. The vulnerability of the child, including any emotional, health or other personal needs must be considered before applying exclusion zones. Careful explanation of the requirements such as battery charging must be given.

To find out more, read [How to manage the YRO Electronic Monitoring Requirement.](#)

## How to support a child in the community

As a youth justice service (YJS) case manager, you must meet the child, or arrange for a colleague to do so, on the day of their release.

The following arrangements must be in place on release:

1. Who is meeting the child at the secure establishment: this should be a pre-agreed appropriate adult, e.g. a parent or carer, or a representative of the local authority, e.g. their social worker or YJS case manager.

2. How they are travelling from the secure site to home and who they are travelling with: this must be an appropriate adult or local authority representative. Under no circumstances should a child travel alone by public transport, or other means, from the secure site to their home.
3. Face to face meeting with their YJS case manager: if you have not met them at the secure site and travelled with them to their home, then you must meet them at another time on the day of release, either at the child's home or the YJS.

Children are likely to struggle with understanding or taking in new information during such a significant transition. For your first meeting on the day of release, wherever it takes place, you should:

- re-confirm they understand their licence conditions
- let them know how they can get in contact with you if they need to and other agencies that they can contact if they need help
- confirm the date and time of the next appointment

If the child's appointment is arranged for somewhere other than their home you should confirm that the child knows how to get there and can get there. This could include checking they know the time and stops of any public transport they need to use, and have a ticket for the journey, or, know how to get one and have the means to do so.

Secure establishments should not release a child without the pre-agreed and named appropriate adult being there to take responsibility for the child in person. The only exception is that they may be released to a YJS or local authority representative if the pre agreed appropriate adult is unable to be there.

You should arrange a second appointment within 5 days of release. If you have not attended the child's home on the day of release, then this must be a home visit. For the remainder of the supervision period, you should visit them at their home at least monthly to ensure that their home remains suitable.

Throughout the supervision period, you will give appointments as necessary for you to offer the personal support to enable the child to meet the requirements of their resettlement plan. Further guidance on how to set the frequency of appointments can be found within [How to assess children in the youth justice system](#). These appointments should continue to follow the requirements of the resettlement planning meetings including information gathering from other professionals working with the child.

For the first of these meetings, and subsequently, if it would benefit the child, you should invite the secure resettlement practitioner.

During the supervision period you should work with the child, their family/carer, and other services to provide the structural support they need as informed by the routes identified in personal support (this should be reflected in the planning paperwork). The support should be in line with the [5Cs](#) and should include:

- suitable and supported living arrangements
- work to support children and their relationships with their family and/or carers
- work to protect victims and support the safety of the child and the public
- education, training, and employment provision (including any necessary contact with local careers advisory services)
- constructive leisure activities

- support for health, mental health and substance misuse issues as needed
- work towards their individual goals and aspirations for their personal development
- provision of any support necessary for dealing with finances, debts, and benefits
- protecting children from the risk of exploitation
- updates to licence conditions/NoS requirements, these should be authorised by the issuing governor of a young offender institution by contacting the establishment's resettlement team or, in the case of secure children's homes or secure training centres, the Youth Custody Service's [sentence and release team](#)
- a plan for how the child will transition to universal services at the end of the order and how any additional support will be provided

For further advice on supporting the child in the community see the [how to work with children](#) section of this guidance.

### **How to support a child with the conditions of their licence**

This guidance should be read in conjunction with [How to respond to non-engagement \('breach'\)](#).

As a youth justice service (YJS) case manager, you are responsible for supporting the child to meet the requirements of their licence/Notice of Supervision (NoS). This includes:

- ensuring the provision of necessary support services
- identifying and tackling any barriers to engagement as they emerge
- tailoring the plan to meet changing needs
- you also have a responsibility both for setting boundaries and encouraging children to understand how those boundaries can keep them and others safe

You should speak with the child to understand any barriers to their engagement with licence conditions/NoS requirements and any additional support they may need to engage with them.

You must respond to any breaches of the conditions/requirements and should do this with a visit or telephone call where possible, followed by a letter within 24 hours. As with all letters to children, you should use clear, understandable language.

If the YJS has access to speech, language, and communication specialists, they could advise as to the content and structure of any written letters to children under supervision. Please see this guidance on [how to adapt your approach for speech language and communication needs and neurodiversity](#).

This includes monitoring and managing breach of electronically monitored curfews where these are a part of the licence, through liaison with the agency supplying the equipment.

Breaches of licence conditions/NoS requirements may include:

- committing a further offence
- not attending a scheduled appointment with the YJS supervising officer, or partner agency as instructed, without a reasonable excuse
- attending a scheduled appointment but not engaging in planned work, or disrupting a session
- missing a curfew without a reasonable excuse

- staying away from the address overnight without informing you

You will need to take a view as to the severity of each incidence of breach; and implement a suitable and proportionate response. This may include asking the child to make up a missed appointment; discussion with the parent or carer; involving a manager in the YJS to explain the importance of engagement; or referral to a compliance panel.

[Compliance panels](#) should provide opportunity for additional support to be put in place to help the child succeed in completing their licence without the need to return to custody.

With the agreement of a manager of operations level at the YJS, repeated compliance panels may be necessary to support the child to engage.

In cases where the YJS is unable to engage the child successfully, it may be necessary to revoke the licence or notice of supervision.

In some instance it may be necessary to revoke the licence or notice of supervision immediately to keep potential victims safe.

### **Revocation of a Notice of Supervision**

For children subject to Detention and Training Orders (DTOs) this will be dealt with by the court.

You should have the following information ready:

- a breach report detailing the:
  - facts of the offence and the breach
  - efforts made by the YJS to engage the child
  - an assessment of why you think they have failed
  - any further proposals for engaging them in the community
  - implications for the child of returning to custody
  - progress towards positive identity development
  - any concerns you have on your ability to support the child to remain safe to themselves and others, including any victims, in the community
- Crown Prosecution Service papers for the original offence
- a copy of the Detention and Training Order and agreed NoS requirements
- a copy of the summons

### **Revocation of a licence**

For children who are subject to a licence (all [sentenced children](#) not serving a DTO), the youth justice service (YJS) can implement recall proceedings that may not require the child to appear in court before they are returned to custody.

The guidance on understanding why children may have breached and supporting them to comply with their licence conditions in the community still applies in these cases.

The decision to initiate recall proceedings is made by the supervising YJS case manager, normally following a breach or compliance panel. The recall decision should be agreed and signed off by an operations manager or manager of at least equivalent seniority.

In these cases, as the YJS case manager, you must contact the appropriate Public Protection Casework Section (PPCS) Recall Team as soon as is reasonable after the incident or behaviour that triggers the recall process:

### **Team 1**

Responsible for London Division, Southeast and Eastern Division, Southwest Division and HMPPS Wales

Email: [Recall1@justice.gov.uk](mailto:Recall1@justice.gov.uk)

Phone: 07970 670915

### **Team 2**

Responsible for Northeast Division, Northwest Division and Midlands Division

Email: [Recall2@justice.gov.uk](mailto:Recall2@justice.gov.uk)

Phone: 07773 183028

The PPCS will provide further advice on the recall process and provide you with the necessary forms where appropriate. The PPCS does not need to be notified of cases involving the revocation of a Notice of Supervision.

Once you have completed and returned the necessary paperwork the PPCS will review the recall request report and then issue the YJS with a revocation of licence for the child's arrest. If you are a YJS case manager, you should then:

- send the revocation of licence to the police, this will usually be the seconded officer in the YJS
- send a copy to the Youth Custody Service's (YCS) Placement Team by secure email
- complete the Custody module of AssetPlus and send to the YCS Placements Team
- save a copy with the child's file to prepare for their return to custody

Please see the [HMPPS recall policy](#) for further guidance on this process.

When the child has been arrested you must [contact the YCS Placement Team](#) to discuss the child's return to custody and complete and send any remaining necessary paperwork.

You should also inform their parent/carer and social worker if it is appropriate to do so. Once placement has been confirmed, prison escorts contracted services will be notified by the Placement Team to collect the child from police custody and take them to the identified secure setting.

### **What to do following a child being recalled to custody**

If a child is recalled to custody the youth justice service case manager should confirm that the parent/carer and social worker know that they have been recalled and where they have been placed. You should also make sure the child, parent/carer and social worker understand the reasons why the recall has taken place.

As the youth justice service case manager, you must update their resettlement plan and at the earliest opportunity, contact the secure resettlement practitioner. The resettlement plan will need to be revised to account for the additional period in custody. The resettlement meetings will continue in custody in line with the Constructive Resettlement framework. Children recalled to custody are likely to experience it as reinforcing the 'pro-offending' narrative of their identity.

Whilst not excusing the offending behaviour that may have taken place, professionals should support the child to recognise positive activity that has taken place in the community and build on that within their resettlement plan.

## Section 12 - Out of Court Disposals

How and when to use out-of-court disposals. The informal and formal options as well as the decision-making process. It also covers how to respond to issues such as non-engagement. It explains the Child Gravity Matrix and who to involve, including children, families and victims.

### Why you need to focus on diversion

It is important that we divert children away from the formal youth justice system where appropriate. This will reduce crime, keep communities safer, cut costs, and create better outcomes for children and victims.

It is recognised that diversion is not appropriate in all cases and the serious nature of an offence, or actual or potential harm, means that formal criminal justice processes are necessary.

The evidence suggests that contact with the criminal justice system can lead to negative labelling and stigma. This makes it more likely that children will reoffend (see [Petrosini, Turpin-Petrosini, Guckenburg 2010](#) and [Wiley and Esbensen 2013](#)). There is particularly strong evidence that diverting children before they reach court can protect them against further involvement in crime ([Wilson et al 2018](#)). Most children will naturally mature out of offending behaviour (see [Bottoms 2006](#)).

It is important to ensure that children are not unnecessarily criminalised and individual circumstances are fully considered. This is a central tenant of an evidence-based Child First approach (see [Case and Browning, 2021](#)). A focus on diversion will:

- help children avoid getting involved in the formal youth justice system and the damaging consequences
- avoid the cost of formal processing through the justice system
- save on future costs by addressing children's unmet needs at an early stage before they escalate and become more difficult and costly to manage
- focus on children's needs, identify and build on their strengths and create opportunities to realise their potential through education, employment and other activities

Access to and use of diversion must be fair and equal for all. Diversion should be designed, implemented and operated in a way that is sensitive to the impact on people with protected characteristics and reduces disparity.

### The options for out-of-court disposals

The term out-of-court disposal refers to the different ways of resolving a situation without going to court. They can be either informal (non-statutory) or formal (statutory) and don't involve a decision made through a court process.

#### Formal options

Formal out-of-court disposal options are:

- **Youth Caution**
- **Youth Conditional Caution**

These disposals will be recorded on police systems under the following outcome codes:

- Youth Caution (Outcome 2)
- Youth Conditional Caution (Outcome 2)

Formal options result in entry into the youth justice system and in relevant cases the child becoming a first time entrant (FTE).

The legislation for these disposals is set out in Chapter 7 of the [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#).

Formal out-of-court disposals should not be routinely used with children committing first time and less serious offences. Their use should be reserved for children who would otherwise receive a court sentence. This is to ensure that all responses to children that offend are aimed towards achieving the lowest possible level of criminal justice intervention, appropriate in the circumstances.

### **Informal options**

Informal out-of-court disposal options include:

- Community Resolution
- no further action
- [Deferred Prosecution](#)/Deferred Caution

These disposals will be recorded on police systems under the following outcome codes:

- Community Resolution (Outcome 8)
- no further action
  - (Outcome 22) - used when diversionary, educational or intervention activity has been undertaken and it is not in the public interest to take any further action.
  - (Outcome 21) - used when further investigation, that could provide sufficient evidence for charge, is not in the public interest (includes dealing with non-abusive sexting offences without criminalising children)
  - (Outcome 20) – used where action resulting from a crime has been undertaken by another agency or body other than the police, subject to the victim being made aware of the action being taken.
- Deferred Prosecution/Deferred Caution (Outcome 22)- used when a prosecution or caution is put on hold until a diversionary activity is undertaken within a specified period of time.

Informal options do not result in formal entry to the youth justice system and the child will not get a criminal record. However, formation about the offence will still be kept on local police databases and therefore could be disclosed on enhanced DBS (Disclosure and Barring Service) checks.

Read more about [how to help children and families understand the implications of convictions and disclosure requirements](#).

The police use other 'no further action' outcome codes, but those listed above are considered specific to diversion work.

Further information please see [Definitions for Prevention and Diversion - Youth Justice Board \(2021\)](#)

Youth justice services (YJSs) may use different terms locally to describe their diversion work. It is important to ensure there is clarity on the type of informal out-of-court disposal issued to a child and the corresponding police outcome code used to record this on police systems. This is to support accurate data-recording in YJS case management systems.

The recording of all YJS diversion work is now mandatory under the [YJB's Data Recording Requirements 2023/24](#)

The [standards for children in the youth justice system \(2019\)](#) state that point-of-arrest diversion should be evident as a 'distinct and substantially different response to formal out-of-court disposals'. Point-of-arrest youth diversion refers to informal out-of-court disposals. This offers a constructive alternative to the formal processing of children through the youth justice system.

All out-of-court disposals should be:

- collaborative and [involve children/parents carers](#)
- constructive and future-focused
- built on supportive relationships that empower children to fulfil their potential and make positive contributions to society
- child-focused, developmentally-informed and should acknowledge structural barriers
- used to minimise stigma from contact with the system

### **The options available to decision-makers**

The term 'out-of-court disposal' now incorporates both formal and informal out-of-court disposals. The [Child Gravity Matrix](#) sets out the breadth of disposal options available to decision makers.

The disposal table within the Child Gravity Matrix sets out the details of each available disposal, including:

- disposal
- police outcome code
- disclosure requirements
- whether acceptance of responsibility or admission of guilt required
- whether it can be used as Deferred Prosecution/Deferred Caution (decision delegated to individual forces)
- whether interventions are voluntary
- whether a joint decision with the youth justice service (YJS) is required/recommended
- whether restorative approaches are available

Use the scroll bar at the bottom of this table to view all the different options.

## Disposal table

Disposals	No further action	No further action	No further action	No further action	Community Resolution	Youth Caution	Youth Conditional Caution	Charge
<b>Home Office outcome codes</b>	All other relevant no further action codes	Outcome 20	Outcome 21	Outcome 22	Outcome 8	Outcome 2	Outcome 2	Outcome 1
<b>Formal conviction (child becomes a first time entrant*)</b>	No	No	No	No	No	Yes	Yes	Yes
<b>Disclosed on Disclosure and Barring Service (standard or enhanced)</b>	Not automatically disclosed	Not automatically disclosed	Not automatically disclosed	Not automatically disclosed	Not automatically disclosed	Not automatically disclosed	Disclosed for maximum of 3 months Thereafter not automatically disclosed	Yes
<b>Requires acceptance of responsibility or admission of guilt</b>	No	No	No	No	Acceptance of responsibility	Admission of guilt	Admission of guilt	No
<b>Can be used for deferred prosecution</b>	No	No	No	Force decision	No	Force decision	Force decision	Force decision
<b>Diversions / education activities to</b>	No	Yes-but voluntary and by another	Yes- but voluntary	Yes <sup><a href="#">footnote 1</a></sup>	No- but can be voluntary	No- but can be voluntary	Yes	Yes

<b>be completed</b>		agency/body						
<b>Stage of Gravity Matrix</b>	1	1/2	1/2	2/3/4	2/3	3	4/5	5
<b>Joint decision required with YJS</b>	No	No, but recommended	No, but recommended	Yes	No, but recommended for second Community Resolution or above	No, but recommended Yes for second Youth Caution	Yes	No
<b>Restorative justice</b>	N/A	Yes	Yes	Yes	Yes	Yes	Yes	Yes

## **No further action**

There are several instances where the police may decide to take no further action. These include where there may be evidential difficulties, prosecution is prevented, or no suspect has been identified. These are recorded by the police under a range of Home Office outcome codes.

There are also instances where it is not considered to be in the public interest to take formal action. However, there may be further action taken either by the police, the youth justice service (YJS) or another agency to support the child. These are recorded by the police under the following Home Office outcome codes:

### **Outcome 20**

“Further action resulting from the crime report will be undertaken by another body or agency other than the police. This is subject to the victim (or person acting on their behalf) being made aware of the action being taken”.

If diversionary activity is offered, this will be on an entirely voluntary basis and may or may not be delivered by the YJS depending on local arrangements. The outcome code may be used where it is deemed that no police intervention is required and support can be provided from other agencies, such as schools.

### **Outcome 21**

“Further investigation resulting from the crime report that could provide evidence sufficient to support formal action being taken against the suspect is not in the public interest – this is a police decision. “

If diversionary activity is offered, this will be on an entirely voluntary basis and may or may not be delivered by the YJS depending on local arrangements. The intention of using this outcome code in cases of child produced and non-abusive sexual imagery is to present a proportionate response to this behaviour. It is to avoid criminalising children for sharing images consensually or where no aggravating factors are present within the sharing of these images.

### **Outcome 22**

“Diversionary, educational or intervention activity, resulting from the crime report, has been undertaken and it is not in the public interest to take any further action.”

An admission of guilt or acceptance of responsibility is not required for this outcome code to be used. Although available to all children, this disposal was developed to reflect and respond to the lack of trust in the police and criminal justice system by some ethnic minority groups. Its use therefore is crucial to reducing disproportionality within the criminal justice system and to ensure equal access to diversion for all children.

Outcome 22 must not be used where no rehabilitative diversionary, educational or intervention activity has been completed. A child’s engagement in the agreed activities should be monitored and appropriate alternative disposals considered - where these are not undertaken. Should the child fail to complete the diversionary activity, the police have the power to enforce a formal disposal outcome.

Crimes will also be closed using Outcome 22 when using a Deferred Prosecution Scheme by way of a disposal. Further information on Deferred Prosecution Scheme is contained within [National Police Chiefs’ Council’s \(NPCC\) guidance](#)

Outcome 22 is currently not consistently applied by all police forces and its use is a local force decision. It is also currently not measured as a positive outcome for forces which can act as a barrier to its use. National

Police Chiefs' Council's guidance states that given the positive benefits derived from diversionary work; the lack of positive detection should not deter forces from using it.

For further information please see the [NPCC Guidance on Outcome 22](#).

The YJB's Data Recording Requirements (2023/24) require mandatory reporting from YJS's on diversionary outcomes where there has been YJS involvement. These include the above outcome codes (Outcome 20/21/22) and these are also reflected within the Ministry of Justice's key performance indicator for out-of-court disposals. The Data Recording Requirements ask that the YJS makes a distinction between the use of Outcome 22 and its use as a Deferred Prosecution Scheme disposal.

The Youth Justice Legal Centre's [guide on criminal records](#) includes useful information on the criminal record implications of no further action.

### **Community Resolutions**

Community Resolutions are the lowest disposal available to police and can be a way of dealing quickly with low level offending where a child accepts responsibility for their actions.

Interventions may be offered to the child; however, these are entirely voluntary and cannot be enforced if not completed.

Joint decision-making between the police and youth justice service (YJS) is recommended for any second or subsequent Community Resolution. This is to safeguard against their repeated use where the underlying causes of a child's behaviour may not be known and to ensure support can be provided to address unmet needs.

Police should notify the YJS of all Community Resolutions issued to a child within 24 hours. Depending on local arrangements, where the YJS has not been involved in the decision making, it is best practice for the YJS's to screen the children involved and offer voluntary support where appropriate.

For further information please see National Police Chiefs Council's Guidance on [Community Resolutions](#).

### **Deferred Prosecution Scheme**

Deferred Prosecution Schemes are a non-statutory disposal, whereby the police have the option to put on hold a prosecution or caution until a diversionary activity is undertaken within a specified period of time.

It is an umbrella term to encompass both deferred prosecutions and deferred cautions and is used interchangeably. It is available for use with children; however, it is a local decision for forces as to whether they offer this disposal.

It is important to understand that Outcome 22 and Deferred Prosecution are not the same thing.

Deferred Prosecution is a disposal option available, whilst Outcome 22 is how the case will be recorded by police in accordance with National Crime Recording Standards. Where Outcome 22 is used to record a crime outcome it does not automatically imply that a Deferred Prosecution Scheme has been used as a disposal option. However, all Deferred Prosecution cases, should be recorded by the police as Outcome 22.

It is important that local partnerships understand how Outcome 22 is being used in their area and whether their local police are operating a Deferred Prosecution Scheme that is available as a disposal option for children. The YJB's Data Recording Requirements 2023/24 require mandatory reporting of Diversionary

Outcomes and a distinction between Outcome 22 and Outcome 22 as Deferred Prosecution Scheme. The is also reflected in the [key performance indicators requirement](#) for out-of-court disposals, introduced in April 2023.

## Youth Caution

A Youth Caution is a formal out-of-court disposal and may be given by the police for any offence where:

- the child makes a full admission
- there is sufficient evidence for a realistic prospect of conviction, but it is not in the public interest to prosecute

There is no statutory requirement for assessment and intervention by the youth justice service (YJS) for the first youth caution, although it would be best practice for the YJS to offer this as a voluntary intervention.

While Youth Cautions aim to provide a proportionate and effective resolution to offending, the use of Youth Cautions without any interventions offered to the child should be minimised.

Consideration should also be given to other available options which offer support and intervention without the stigmatising impact of a criminal record. This includes the use of deferred caution where a deferred prosecution scheme is an available disposal option by the local police force.

You should observe the following:

- a Youth Caution must be formally issued by the police
- children must be accompanied by an appropriate adult, and/or whenever possible a parent or carer, when the Youth Caution is administered and explained.
- if the child is care experienced then a representative of the organisation providing the care should attend as an appropriate adult, and a social worker from the local authority is a suitable alternative
- children and their parents/carers or other appropriate adults should have access to up-to-date and accurate information about Youth Cautions, so that they can make an informed decision
- the parent, guardian or other appropriate adult must also be given copies of any written information given to the child
- children and their parents/carers should be aware that the explicit consent of the recipient is not required to give a Youth Caution
- under no circumstances should anyone suggest that a child should admit to an offence solely to receive a Youth Caution and avoid attending court
- information, support, advice and assistance from the YJS or an appropriate adult is in addition to and not a substitute for legal advice

The status of Youth Cautions should be made clear to children and appropriate adults , including that:

- a record of the Youth Caution will be kept by the police
- under the Rehabilitation of Offenders Act 1974 the Youth Caution will be considered “spent” immediately but that it may be disclosed to employers in certain circumstances
- a Youth Caution given in relation to an offence in Schedule 3 to the Sexual Offences Act 2003 will require the child to engage with the notification requirements in that Act

- interventions attached to a Youth Caution are voluntary and there is no separate penalty for failing to engage with them, however failing to engage with this intervention can be cited in any future criminal proceedings

There is no restriction on the number of cautions a child can receive and previous Youth Conditional Cautions are immaterial.

Youth Cautions could impact on a child's future, including their ability to travel to other countries, apply for certain jobs and on immigration applications. The Youth Justice Legal Centre have produced [information sheets](#) for children and families to help them to understand the implications of convictions and cautions and what it means for them.

### **Youth Conditional Caution**

The eligibility criteria for a Youth Conditional Caution is the same as for a Youth Caution, with a full admission of guilt being required.

In the case of Youth Conditional Cautions, you should observe the following:

1. The youth justice service (YJS) should undertake an assessment and make recommendations to the police regarding suitable conditions necessary to support desistance.
2. The child must agree to accept both the Youth Conditional Caution and the attached conditions, with which they must engage.
3. An appropriate adult must be present when the police explain the effect of the Youth Conditional Caution to the child and warn them that they may be prosecuted for the offence if they don't engage with the conditions.
4. The YJS is responsible for monitoring engagement and should make every effort to support the child to engage with the support set out in the conditions.
5. All conditions imposed should be achievable within 16 weeks of the date of the disposal being issued.
6. It is the role of the police to write these conditions into the Youth Conditional Caution contract and arrange for the child and their parents/carers or other appropriate adult to sign this.
7. If the appropriate adult is also asked to sign the contract, they should do so only if they are content that the Youth Conditional Caution is for the listed offence and that the child's agreement was fully informed and free of pressure or inducement.

It should be made clear to children and appropriate adults the status of Youth Conditional Cautions, including that:

- a record of the Youth Conditional Caution will be kept by the police
- under the Rehabilitation of Offenders Act 1974 the Youth Conditional Caution will be considered "spent" once completed but that it may be disclosed to employers in certain circumstances
- a Youth Conditional Caution given in relation to an offence in Schedule 3 to the Sexual Offences Act 2003 will require the child to engage with the notification requirements in that Act
- failure to complete the conditions could still result in prosecution at court for the original offence

The use of alternative diversionary disposals should be considered prior to the use of a Youth Conditional Caution.

The same interventions can be delivered using a diversion outcome and the use of a deferred caution should be considered where a deferred prosecution scheme is an available disposal option by the local police force.

However, the Youth Conditional Caution can provide a robust disposal where the child does not need to go to court for more serious offences or if there is evidence of a child being unwilling to take part in diversionary work. You should also have regard to the National Police Chiefs' Council's [Child Gravity Matrix](#) and the Crown Prosecution Service's [legal guidance for children as suspects and defendants](#).

Further information on Youth Conditional Cautions can be found in the Ministry of Justice's [Code of Practice for Youth Conditional Cautions](#).

Youth Conditional Cautions could impact on a child's future, including their ability to travel to other countries, apply for certain jobs and on immigration applications. The Youth Justice Legal Centre have produced [information sheets](#) for children and families to help them to understand the implications of cautions and what it means for them.

### **The difference between Community Resolution and no further action (Outcome 22)**

Both Community Resolution and no further action are informal out-of-court disposals and do not result in the criminalisation of a child. This means that the child will not formally enter into the criminal justice system as a first-time entrant.

However, when considering their use as diversion disposals there are some distinct differences to be aware of and these are outlined within the National Police Chiefs' Council's (NPCC) [Outcome 22 Guidance](#) (2022)

#### **Community Resolution**

A Community Resolution is a non-statutory disposal intended to provide a timely and effective response to low level crime. A child must accept responsibility for their actions and whilst there is no requirement for diversionary activity to take place, this can be offered on a voluntary basis and should be encouraged. The police have no powers to enforce it.

#### **Outcome 22**

Outcome 22 does not require an admission of guilt or acceptance of responsibility. This was developed to reflect and respond to the lack of trust of the police and criminal justice system, including by some children from ethnic minorities. This distrust, along with potential biases within the system has been shown to lead to a greater number of ethnic minority children receiving formal criminal justice outcomes, where an informal outcome may have been more appropriate and done more to change their behaviour.

If the child doesn't complete the diversionary activity and the evidential threshold is met, the police have the power to enforce a formal disposal outcome. If an admission of guilt has not been made, this could mean a charge. This is because an admission of guilt is required for a Youth Caution or a Youth Conditional Caution.

More information on each of these disposals is in the revised NPCC guidance on both [Community Resolutions](#) and [Outcome 22](#)

The Child Gravity Matrix indicates that the use of Outcome 22 is a local force decision. It is not currently being consistently applied across all forces or measured as a positive action taken by forces. The NPCC guidance on Outcome 22 states that given the positive benefits of effective diversionary work, the lack of positive detection should not deter forces from using it.

The use of Outcome 22 as an informal disposal option is crucial to ensuring that opportunities for diversion are maximised and that there is equality of access to diversion for all children.

## **The difference between admission of guilt and acceptance of responsibility**

### **Admission of guilt**

Admission of guilt is required for a Youth Caution or Youth Conditional Caution and requires a clear, reliable and unambiguous admission to the offence. Best practice would be for this to be undertaken in a police interview where it is recorded.

There are many reasons a child may not admit guilt, either by way of a no comment interview or denial of an offence. The [Lammy Review](#) highlighted how some ethnic minority groups can be less trusting of the criminal justice system and hence more likely to give 'no comment' interviews. In addition, children may not admit an offence due to insufficient support or legal assistance. Children may also not fully understand the legal process or consequences of their decisions exacerbated by vulnerabilities and additional needs such as special educational needs and disabilities or neurodevelopmental conditions (ADHD, Autism) and speech and language and communication difficulties.

### **Acceptance of responsibility**

Acceptance of responsibility has no legal definition, but it holds less weight than an admission. It is not the same as a PACE compliant formal admission.

A child could accept that their actions may in some way have contributed to what happened. For example, they may have been present when an offence was committed or taken an item from somebody but say the person consented or they were borrowing it. This does not necessarily mean that they have any criminal responsibility or even that they themselves committed the act.

An acceptance of responsibility can therefore only be used for a Community Resolution. This is because Community Resolution is intended for use with minor offences and those which no one would seek to prosecute should the child not engage with any requirements placed on them under the voluntary agreement.

### **How to make out-of-court disposal decisions**

The National Police Chiefs' Council's (NPCC) [Child Gravity Matrix](#) (2023) is a tool used to help make decisions about what should happen to children who have committed offences.

The Gravity Matrix takes into account the different options available to the person making the decision, including statutory and non-statutory disposals. It has been revised to reflect current working practices and the changing views on how children should be treated within the youth justice system. It also introduces a new framework specifically for making decisions in recognition of the differences in children's offending behaviour.

When using the Child Gravity Matrix to support decision making you should remember that it is only a guide. Each case should be looked at on an individual basis to decide the most appropriate outcome or disposal. Discretion 'does' exist to deviate from the Child Gravity Matrix score by way of an out-of-court disposal if the circumstances justify this. The reasons for such action would need to be fully recorded by the decision maker.

You should also be mindful that:

- decisions should be made based on the offence, considering any aggravating or mitigating factors and victim's views where available
- it is important to remember it is for a child and therefore adult standards should not be applied
- it is important to establish whether a child's needs can be met through diversionary activity and whether safety can be achieved for the child and others - there should be a clear rationale for all decisions, which should be recorded on police and youth justice service systems

The Child Gravity Matrix refers to other important documents which you should also consider when making the decision. These include the NPCC's [child centred policing: best practice framework](#), and the [YJB's Introduction to Child First](#) - specifically its Child First principles, all of which highlight the importance of avoiding the unnecessary criminalisation of children.

### **The people responsible for making an out-of-court disposal decision**

Offences are either indictable, 'either-way' or summary offences, largely determined by the seriousness of the offence.

Indictable offences are the most serious offences and must always be referred to the Crown Prosecution Service (CPS) for a decision as to whether to charge. All terrorism offences must also be referred to the CPS. This includes summary and either-way offences.

Offences referred to the CPS may still result in an out-of-court disposal, but this is not a decision that can be taken by the police/youth justice service (YJS) alone. All other offences are within scope for police/YJS decision-making and therefore the range of options available are set out in the [Child Gravity Matrix](#).

Out-of-court disposal decisions are therefore primarily made by the local police force where the child commits the offence. However, the YJS has an important role in understanding the circumstances of the child, any vulnerability factors and potential harm that should be considered when deciding the most appropriate outcome or disposal.

The Child Gravity Matrix provides further guidance as to when decisions should be made jointly between the police and YJS. Specifically, that:

- decisions relating to the use of no further action (Outcome 22), Youth Conditional Caution or a second Youth Caution should be made jointly between the police and YJS
- decisions relating to use of no further action (Outcome 20 and 21), Youth Cautions and any second or subsequent Community Resolution are recommended to be made jointly between the police and YJS
- the police decision maker considers if the case being reviewed is borderline between a charge and an out-of-court disposal - best practice would be to liaise with the YJS to assist in making the most appropriate decision

Joint decision making between the police and YJS is recommended wherever possible and where resources permit. Where single agency decisions are to be made by the police there should be safeguards in place to ensure relevant information about the potential underlying causes of the child's behaviour are known. These should inform the decision and ensure opportunities to offer support to meet the child's needs are not missed.

Children who have reached 18 years of age prior to the out-of-court disposal decision being made, can only be made subject to adult disposals.

### **How to embed joint decision-making arrangements.**

The youth justice service (YJS) or youth justice services (YJS's) and the police should draw up a joint protocol setting out locally agreed practice with regards to out-of-court disposals in their force area.

This protocol should establish and embed joint working arrangements and clearly set out the multi-agency diversion process, including:

- the referral processes
- the eligibility criteria
- arrangements for joint decision making
- arrangements for assessment
- information sharing processes
- arrangements for repeated use of diversion
- escalation process where agreement between the YJS and the police cannot be reached as to the most appropriate outcome for the child
- arrangements for children sent back from court for consideration of an out-of-court disposal
- arrangements for monitoring engagement and responding to non-engagement
- the roles and responsibilities of all professionals involved
- the scrutiny and monitoring arrangements.
- how children's diverse needs are incorporated into decision-making and the delivery of services
- arrangements for obtaining the views of the victim and restorative processes available
- arrangements for the delivery of out-of-court disposals, including interventions
- arrangements for the administering of Youth Cautions and Youth Conditional Cautions

The joint protocol should:

- be signed by all relevant partners
- be regularly reviewed by the local partnership and monitored against the extent of its use, the characteristics of the children involved and its impact on reoffending
- take account of the [Child Gravity Matrix](#) and the [evidence base](#)

### **How to convene a joint decision-making panel**

Joint decision-making panels (England) or a Bureau (Wales) provide a multi-agency forum for decision-making.

They bring together key partners to consider information about the offence, the child's circumstances and needs, and the victims' views, if available, to determine the most appropriate outcome. These may be done in person, virtually or in bespoke ways according to the context of the local area and local partnership arrangements.

As a minimum, the panel should comprise of a:

- police decision-maker
- youth justice service (YJS) team manager
- representative from children's social care and education

It is also good practice to include a range of partners such as health services, early help services and a victim representative. Services may judge that other professionals can add value to the discussion, either on a one-off basis or as a standing member of the panel. Where key agencies are not represented at the panel, or where a formal panel does not exist due to local arrangements there should be a process in place to share relevant information to inform multi-agency decision making.

It is not appropriate for the child to be present at the panel. These meetings are for professionals and should not mirror formal criminal justice processes such as Referral Order Panels.

The YJS should ensure they have spoken with the child and their carers before the panel to ensure their needs are fully understood and they are engaged in the process.

Representatives from the YJS at the panel should have a full understanding of the child's circumstances and be familiar with any assessment undertaken in the event they are not the case manager. They must be able to fully represent the voice of the child in the discussion and ensure any critical information does not get lost.

Things to consider include:

- whilst all panel members will have a view on the most appropriate disposal, the decision sits with the YJS and the police
- there should be a clear escalation process where agreement between the YJS and the police cannot be reached as to the most appropriate outcome for the child
- some decisions may require more senior oversight from both YJS and police, particularly when considering more serious offences and the use of a [Deferred Prosecution Scheme](#)

Where joint decision panels exist, they should not contribute to net widening and draw children into the system unnecessarily or become overly bureaucratic. They should remain mindful of the need for swift administration, ensuring referrals are discussed at panel within 4 weeks of being received.

The YJS should discuss the panel decision with the child and their parent/carer to ensure they understand the outcome and what is expected of them.

Read [How to involve children and parents/carers](#) for more information.

Joint decision-making panels should also monitor engagement with out-of-court disposals and agree action to be taken in the event of non-engagement.

### **The information needed to inform decision-making**

Statutory partners have an important role to play in ensuring that information about the child is shared and understood by decision makers. This will help ensure the most appropriate outcome or disposal for the child.

This includes:

- information regarding the child's education, including attendance, suitability of provision, and any special educational needs and disabilities, or additional learning needs
- information regarding the child's family and living circumstances

- information about any known vulnerabilities, adverse childhood experiences, exploitation or safeguarding concerns
- information about the child's health needs, including any speech and language and communication needs, emotional wellbeing and substance misuse
- police intelligence and information about previous offending, including any concerns for the safety of others

There should be local arrangements in place to facilitate the timely sharing and gathering of this information as required to ensure referrals are discussed at panel within 4 weeks of being received. Where decisions are to be made jointly by the police and YJS, the YJS may decide to gather this information via screening or assessment prior to a decision being made.

However, assessment is always required to determine the most appropriate interventions and the YJS should draw on recent existing assessments where these exist.

### **How to apply discretion in decision-making**

The [Child Gravity Matrix](#) is an important tool designed to assist the police when deciding on the most appropriate outcome for children who commit offences. However, it is to be used as a guide only and professional discretion should be applied in determining the most appropriate outcome for the child.

Each offence has a starting score of 1-5, to which you would then apply aggravating and mitigating factors, along with vulnerability factors and adjust the score accordingly. This results in a final score. However, starting scores can only be upgraded or downgraded by one point irrespective of how many general factors may be present or identified. These factors must be fully recorded and evidenced by the decision maker in their rationale.

There will therefore be circumstances where there are significant, mitigating and/or vulnerability factors, or aggravating factors which the decision makers judges should have a bearing on the outcome, which cannot be sufficiently reflected in the final score.

The Child Gravity Matrix makes it clear that discretion does exist to deviate from it by way of an out-of-court disposal, but that the circumstances and rationale for doing so must be fully recorded.

It is important to establish whether the child's needs and their safety and that of others could be met through an out-of-court disposal.

Where Deferred Prosecution Schemes are not used by forces, this may limit the diversion offer locally.

### **The eligibility criteria for diversion schemes**

The eligibility criteria for diversion schemes should be agreed at a local level and set out clearly within the local out-of-court disposal protocol. Decision makers should follow relevant NPCC guidance and the evidence base and allow for decision making on a case-by-case basis using professional discretion. Eligibility criteria should not operate on a blanket policy based on gravity score, offence type (excluding indictable only offences and terrorism offences) or offending history.

This approach also has positive implications for facilitating equal access to diversion for all children. There is significant evidence that choosing inappropriate eligibility criteria can make it less likely for children from some ethnic groups to access diversion and thus contribute to racial disparities ([Farinu, M., Robin-D'Cruz, C., Waters, R. and Whitehead, S. \(2020\)](#)).

Diversion schemes which require a formal admission of guilt may contribute to these disparities. Lowering the threshold to allow some acceptance of responsibility for the linked offence is more appropriate and inclusive.

There is a crucial role for ensuring disposals are used appropriately. They should minimise contact with the formal criminal justice system for children who don't really need it and whose needs can be met through other services and minimise net-widening (bringing more children into contact with youth justice services than would have happened otherwise). This can often be well intentioned as result of seeing unmet needs for children and wanting to offer them help and support. However, research suggests that this can be a counter productive. As such, local areas should have prevention options available to support these children.

The most serious offences, where there is a significant potential for harm are appropriately subject to formal criminal justice outcomes.

Out-of-court disposals should not be used where a child denies any involvement in an offence as due legal process should be applied. Children should have the right to a fair trial where it is in the public interest to prosecute.

### **The importance of timely decisions**

For diversion to be effective it should happen as soon as possible after the offence occurs, usually within 4 weeks of referral to decision makers. This enables children's needs to be identified and support to be offered to avoid any further escalation in their offending.

You should consider the following:

1. Delays in police investigations involving children as suspects should be minimised by ensuring investigations are prioritised and proportionate.
2. The length of time since the offence was committed should be taken into consideration when determining the most appropriate outcome for the child, to ensure the relevance of any response.
3. Youth justice services should be provided with the details of children released under investigation and on bail and you should offer or signpost these children to support wherever possible.
4. Referrals into diversion schemes should be as simple and straightforward as possible and formalised into a shared protocol with the police.
5. You should ensure that there is a locally agreed timely process for sending cases back from court for consideration of an out-of-court disposal.
6. You should ensure that disposals are administered and any agreed interventions put in place in a timely manner following the disposal decision. This should not exceed 4 weeks.

### **Repeated use of diversion for the same child**

There is no limit on the number of times a child can receive a diversion disposal. Decisions should be made on a case-by-case basis and should be based on the factors outlined in the [Child Gravity Matrix](#) including the offence and any assessed vulnerabilities or needs of the child.

However, consideration should also be given to whether any previous diversion activities have been effective in meeting the child's needs and have been meaningful to them. It is also important that there is scrutiny and oversight of out-of-court disposals including their repeated use.

There is no requirement for children to have a more intensive outcome for subsequent offences. It is known that children who have experienced significant adversity in their lives are unlikely to change quickly and may require more than one opportunity to change their behaviour. Interventions can take time to have an impact and/or reduce concerns, such as identifying suitable education provision or addressing safeguarding concerns. In instances of repeat but low-level offending, children should have more than one opportunity to take advantage of diversion.

Local areas should agree a process where children can have more than one opportunity for diversion, but there should also be oversight to avoid excessive repeated use. It is accepted that children do not always change at the first opportunity, however, overuse will be less effective.

It is important to ensure that the system remains effective by developing a locally agreed process around repeated use. This should take into account considerations such as:

- age
- maturity
- need
- victims' wishes
- context of offending
- time since last diversion

The escalation to court, or more formal out-of-court disposals should be justifiable either due to the seriousness of the offence or because additional controls available through the court or conditions need to be used.

Previous offending and diversions should not be an automatic bar to diversion, but rather should be considered on a case-by-case basis. This is particularly important to address disproportionality due to social and justice inequalities. It is important to understand why previous diversion may not have been effective and what could be done differently in the event of further diversion.

### **What to do when a child commits an offence in an area where they do not live**

If a child commits an offence in an area where they do not live then the disposal decision must remain with the police in the area where the offence took place. This means that local decision-making arrangements will apply. However, communication between the home youth justice service (YJS) and host YJS are vital in ensuring that the child is not unnecessarily criminalised, and they get the support they need.

It is also good practice for areas to publish details of their diversion offer and contact details for the lead in this area on their websites. This will facilitate better communication between YJSs but also allow legal advisors to be aware of the offer in different areas of the country.

Further details of what to do when a child commits an offence in an area where they do not live is detailed in the YJB [case management guidance on case responsibility](#).

## **How to respond if cases are sent back from court for consideration of an out-of-court disposal**

It is important that diversion schemes have clear mechanisms to ensure that children do not reach court unnecessarily.

There are many reasons why cases potentially appropriate for diversion still reach the point of formal prosecution. However, this usually applies to children who give 'no comment' interviews or where charging decisions have not considered all relevant information about the child.

Reasons for 'no comment' interviews often include:

- insufficient or inappropriate support and/or legal representation at the police station
- a lack of understanding of legal processes and the diversion offer
- a lack of trust in the police and criminal justice system
- health vulnerabilities such as speech and language and communication difficulties and neurological conditions such as ADHD/ASD.
- possible coercion/fear (e.g. If the co-accused is an adult)

This can affect already disadvantaged groups, particularly children from ethnic minorities or children who have experienced care. Often such cases will result in a Referral Order being issued at court due to child later making admissions at court, or in being sent back from court for consideration of an out-of-court disposal.

The YJS should engage with children before their court appearance to ensure they fully understand the options available to them.

The Crown Prosecution Service guidance [Children as suspects and defendants](#) states that it is always preferable for cases suitable for diversion to be identified before they enter the court system. Prosecutors will advise the police at the point of charge or post-charge if suitable cases have been potentially missed, or if the child subsequently wishes to make an admission. If that happens then an adjournment may need to be requested. If, after review, it is determined that a caution can be given, a clear and unambiguous admission is a statutory requirement prior to the administration of either the Youth Caution or Youth Conditional Caution.

There is currently no nationally agreed process on sending cases back from court for consideration of an out-of-court disposal

In the absence of a national approach, there should be a locally agreed process, agreed via the local criminal justice board, to ensure children suitable for diversion are not formally prosecuted. There should be a clear and agreed process for ensuring such cases that do reach court can be de-escalated to diversion in a timely manner where appropriate, against which engagement should be monitored.

## **How to decide the most appropriate disposal for a child vulnerable to exploitation**

Concerns about possible exploitation should be identified at the earliest opportunity. When children come into contact with the police as a suspect of an offence, this presents an opportunity to identify such concerns. The police and the youth justice service (YJS) and any appropriate adult provided by the YJS should be alert to circumstances of the offence which may indicate that the child may be vulnerable to exploitation. They should then follow local procedures relating to child exploitation.

A strategy meeting should be arranged so relevant information is shared and a decision made as to whether a National Referral Mechanism (NRM) referral should be submitted and if so by whom. If a child is subject to an NRM referral or they are vulnerable to exploitation, this should be taken into account when deciding the most appropriate outcome.

Police officers are advised to refer to national guidance on the Crown Prosecution Service's Section 45 defence information for clarification on whether it applies to the offence being dealt with. Due to the importance of timely decisions relating to the use of out-of-court disposals, the police and YJS should not wait for the outcome of the NRM referral to make a decision as to the most appropriate disposal. Instead, they should factor this into their decision making as a mitigating factor.

Practitioners should also refer to the Ministry of Justice's [County Lines Exploitation: Practice guidance for YOTs and frontline practitioners \(2019\)](#) which urges professionals to be conscious that children engaged in county lines activity are often exploited.

### **How to assess for out-of-court disposals**

YJS's should gather relevant information about the child to support decision-making via screening or assessment prior to an out-of-court disposal decision being made. However, an assessment is always required to determine the most appropriate interventions. This is particularly important as the child might not be previously known to services

Out-of-court disposal assessments should:

- be proportionate
- focus on the strengths and needs of the child, desistance, and the safety and well-being of the child and the safety of others
- fully consider diversity factors, including all protected characteristics to ensure children's needs can be met
- be undertaken by case managers who are:
  - sufficiently skilled
  - able to take a Child First approach
  - able to accurately assess the child's particular needs, capacities, rights and potential.
  - aware of potential biases and avoid 'adultifying' children from minority groups, particularly Black children
- be regularly reviewed and updated when new information is known

YJS's should also refer to [Case management guidance - How to assess children in the youth justice system](#)

The YJB has developed prevention and diversion assessment tool, which will be mandated for use by YJSs for both informal and formal out-of-court disposals from April 2024. In the interim, YJSs should continue to use existing tools. The YJB is also developing guidance and training to support the implementation of the prevention and diversion assessment tool.

The use of a nationally agreed standardised assessment tool for out-of-court disposals is designed to:

- ensure a more consistent approach to assessment
- reduce the need for replication should the child go on to reoffend due to integration with case management systems

- enable extraction of information on diversion cases to support local and national analysis of this cohort of children
- ensure a more proportionate assessment tool than Asset Plus can be used formal out-of-court disposals

### **How to ensure that interventions are Child First**

Interventions should be delivered in line with the YJB's Child First principles:

- seeing children as children
- enabling the child to develop a pro-social identity
- delivered in collaboration with the child
- minimising stigma from contact with the system

Interventions can vary depending on the needs of the child and should always be supported by assessment and planning. Interventions can be delivered by the YJS or community partners.

Interventions should:

#### **Be proportionate to the child's needs**

Even if the offence is low level and therefore light touch, it is still important to identify the child's unmet needs and try and address them through any intervention offered.

#### **Be proportionate to the offence**

Careful consideration should be given to what is required as part of the disposal and what should be offered to the child on an entirely voluntary basis. This is particularly important for the use of Outcome 22 where consideration can be given to a more formal alternative disposal where these interventions are not completed.

#### **Focus on the causes of offending behaviour**

The intervention should focus on the underlying causes of behaviour rather than the offence itself.

#### **Consider the safety of the child and others, including the victim or any potential victim**

Consideration must be given to what can realistically be achieved during an out-of-court disposal, which is often short term and ensure there are longer term arrangements in place to ensure the ongoing safety of the child and others.

#### **Consider the views of the victim**

Consideration should be given to [restorative approaches](#) where appropriate and in the best interests of the child and victim.

#### **Be evidence-based**

YJSs should understand what is effective for this cohort of children and design their services accordingly using available evidence and research.

#### **Be offered as soon after the offence as possible**

Every effort should be made to minimise delays in support being offered to the child where this is required.

### **Be regularly reviewed**

Consideration should be given to closure and exit planning to ensure that children do not remain open to services unnecessarily and that where unmet needs remain, the child can continue to receive the support required.

Interventions could be delivered through:

- a referral on to another agency, with the agreement of the child, for their needs to be met
- advocating on the child's behalf to access the services they need
- direct work with an identified practitioner, to build the child's strengths and pro social identity
- family or community support

### **Conditions on Youth Conditional Cautions which provide controls**

In addition to interventions, it is also possible to have conditions on a Youth Conditional Caution that act as external controls.

Conditions must be:

- appropriate
- realistically achievable
- proportionate

This can include, but is not restricted to:

- doorstep curfew - requires a child to present himself to a police officer at the door of the prescribed address at any time during the curfew period
- restricted activity - restricts the child from undertaking activity on the day or days specified and during a specified period of time
- exclusions - prohibit the child from going into a specified area for a specified time period

You must have full and informed victim consent in any case where direct reparation or restorative justice processes are being considered or where the victim is directly involved in some way.

### **How to respond to non-engagement**

It is incumbent on you to make every effort to engage children in completing their out-of-court disposal. In most instances engagement in out-of-court disposal interventions will be voluntary, but every effort should still be made to ensure the child's full engagement, including adapting your approach where required. The first aim of any youth justice service (YJS) worker is to engage the child. The planning and delivery of interventions should be a co-production between the child and professionals, but professionals have a particular responsibility for addressing barriers.

For advice and information on how to work with children in contact with the youth justice system please see refer to the [case management guidance - how to work with children](#)

It is the responsibility of the YJS to monitor engagement with out-of-court disposals. Local joint decision-making arrangements should include provision to determine action to be taken in the event of non-engagement by the child.

## **Community Resolution**

The child's participation in an intervention programme for a Community Resolutions is voluntary

## **Youth Caution**

The child's participation in an intervention programme for a Youth Caution is voluntary. However, unreasonable non-engagement with a Youth Caution intervention can be cited in any future criminal proceedings.

## **Youth Conditional Caution**

The child's participation with conditions imposed as part of a Youth Conditional Caution is compulsory and the YJS's must explain to the child and their parents/carers that non-engagement may lead to prosecution for the original offence if considered in the interests of justice.

It is the responsibility of the YJS to inform the police if a child fails to complete their conditions and non engagement should be discussed at the first available joint decision panel so that action can be taken in a timely manner where appropriate. In any instance of non-compliance, the YJS should explain to the child that failure to comply with conditions will be investigated.

Where the decision has been made that prosecution for the original offence will go ahead, the YJS must ensure that the child is aware and will need to provide relevant information to the police. The citable components of any intervention plan must not be longer than 3 months in duration. The YJS may offer the child voluntary interventions in addition to, or after, the formal part of the Youth Conditional Caution if the child agrees to this. However, where the child fails to complete this voluntary involvement, this is not citable if the child reoffends.

## **Outcome 22**

The child's participation in diversionary activity for outcome 22 is voluntary, however if these are not completed an alternative outcome must be given.

## **Deferred Prosecution Scheme**

The child's participation in diversionary activity for a Deferred Prosecution Scheme is voluntary, however where evidential threshold has been met, the police have the power to enforce an alternative formal disposal if these are not completed.

The YJS should monitor engagement and ensure the child and their parents/carers fully understand the potential outcome of non-engagement. The YJS may offer additional voluntary interventions as part of the intervention, however failure to complete these should not result in an alternative disposal being considered.

It is important to be clear with the child which elements of any intervention offered are voluntary and which they will be required to complete.

## **Who to engage with about your diversion offer**

To make diversion successful, you need to cultivate a strong partnership approach. You should take every opportunity to use diversion where appropriate and make sure that all children have equal access to it.

In addition to the role of the youth justice service (YJS) management board's [oversight and monitoring arrangements](#), the following partners have a key role to play in diversion:

## **Police**

Officers across the force who may come into contact with a child for an offence, must understand the local diversion offer, including processes for referral and decision making.

Officers in a case should receive feedback on the outcomes of diversion interventions to support their understanding of the local offer and improve their confidence in it. They must also ensure effective exchange of information with the YJS, in line with the National Police Chief 'Council's Child Gravity Matrix, Community Resolution and Outcome 22 guidance. This is crucial to the success of any diversion offer, alongside effective joint decision making.

Forces should provide information on their force websites about their out-of-court disposals, including the results of out-of-court disposal scrutiny panels. They should also ensure there is information available in custody suites about the local diversion offer, for children, appropriate adults and solicitors.

## **Appropriate adults**

The YJS has a statutory duty to provide appropriate adults and their role is to safeguard the interests of children detained or questioned by the police. They have an important role in ensuring out-of-court disposals are applied in accordance with legal requirements and local agreements. This includes ensuring that children understand the nature and implications of any out-of-court disposal and have access to legal advice. There is also a requirement for appropriate adults to be present for the administering of Youth Cautions and Youth Conditional Cautions.

Appropriate adults should understand the local diversion offer and be provided briefings and information by the YJS, including on the eligibility criteria, referral processes and any criminal record implications.

## **Solicitors**

Solicitors should fully understand the local diversion offer to enable them to offer the best advice to their clients and guide children through the criminal justice process. They should be given the opportunity to make representations regarding diversion as they may be made aware of important information regarding the child's circumstances which will assist decision makers.

Solicitors should be provided with briefings and information by the YJS to explain the local diversion process, including details of the eligibility criteria, referral processes, the requirements that may be made and any potential criminal record outcomes. It is important that solicitors and/or police station representatives undertake specialist youth justice training to ensure the child is receiving the best legal advice.

## **Police and Crime Commissioners**

Police and Crime Commissioners have several key functions which include:

- holding the local Chief Constable to account
- setting the objectives for police and crime in their area through a police and crime plan
- bringing together criminal justice agencies to make sure local priorities are joined up

They have a central role in local criminal justice boards and in bringing together criminal justice partners to deliver better outcomes for communities served by criminal justice agencies. Supporting diversion is an important part of this activity. They also invest in prevention and diversion activity and have a role in evaluating the effectiveness of diversionary support and interventions.

## **Courts**

Courts should have a full understanding of the local diversion offer and receive regular feedback on its effectiveness to ensure confidence in the scheme.

They also have a role to play in ensuring children appearing at court who may benefit from diversion are sent back from court for consideration of an out-of-court disposal where appropriate.

## **Crown Prosecution Service**

The Crown Prosecution Service have a role in ensuring out of court disposals are considered in appropriate cases and in accordance with the law. They also have a role in understanding and monitoring the effectiveness of the use of out-of-court disposals locally via the Local Criminal Justice Boards and Out-of-Court Scrutiny panels.

## **Health**

You should ensure that there are arrangements in place to identify a child's health needs early and offer support where required in alignment with the local diversion offer.

Local liaison and diversion services should provide a prompt response to concerns raised by the police and YJS and provide critical information to inform decision making. Children's speech language and communication needs and neurodiversity must be understood to ensure that the attitude and demeanor of a child with such difficulties does not negatively influence decision making or the delivery of interventions.

Mental health services should meet the needs of children at risk of entering the youth justice system given the link between mental health and children's behaviour and contact with the justice system. You should also consider if there are any physical health and substance misuse needs. This contributes to a holistic assessment of children's needs.

## **Education**

Engagement in suitable education is identified as a significant issue for children who come into contact with the criminal justice system. Diversion schemes should consider any issues associated with a child's education which may be impacting on their behaviour such as:

- attendance
- educational offer
- special educational needs and disabilities, including any education health care plan
- exclusions and managed moves
- elective home education and children missing education

There should be clear processes established for obtaining the relevant information to inform assessment, decision making and planning. Interventions should also address any needs identified in these areas.

## **Children's services**

Children's services have a responsibility to support and protect vulnerable children, such as those in contact with the youth justice system. As such, children's services should be represented on decision making panels to inform decisions and ensure children's needs and any safeguarding concerns are taken into consideration.

## Community

It is beneficial for the local community to understand the diversion offer and information should be available on the front facing websites of the YJS and the police to help their understanding.

## How to involve children and parents/carers

Children and parents/carers are central to the diversion process, which should be inclusive and ensure that they feel listened to.

This should be evident in the involvement of children and parents/carers at all stages of the process. This includes the assessment and the planning and delivery of interventions, which should be co-produced and tailored to meet their needs.

The following actions will help to ensure the effective involvement of children and parents/carers:

1. Youth justice services (YJSs) should seek the views of children and their parents/carers before an out-of-court disposal decision is made and ensure their voices are heard in the decision-making process.
2. There is a balance to be struck between thorough assessment and ensuring the timeliness of decisions, however where assessment is done more fully this results in better engagement in any intervention.
3. It is important that diversion processes are clearly and accurately explained to children and parents/carers so they understand exactly what is expected of them, to support their engagement and increase their trust in the process. This includes ensuring information is accessible where English is not the first language.
4. YJSs should produce a range of materials to support this and ensure workers are confident in their communication with children and parents/carers regarding out-of-court disposals.
5. It is also important that children understand the disposal they have received and any potential consequences of failing to complete the required interventions.
6. Children and parents/carers should also be supported by the YJS to fully understand the implications of accepting various out-of-court disposals and any possible implications for their future.
7. Feedback should be gathered about the experiences of children and parents/carers and then analysed to understand what they are saying about out-of-court disposal work.

The Centre for Justice Innovation's research on [Children and young people's voices on youth diversion and disparity](#) concluded with the following recommendations to improve engagement with children in diversion processes:

- provide relevant and accessible information about legal processes and diversion
- implement effective communication practices
- co-produce tailored intervention plans with children

## How to involve victims in out-of-court disposals

The [Victims' Code of Practice](#) sets out the minimum standard for services that must be provided to victims of crime by organisations in England and Wales.

Youth justice services (YJS), police forces and Police and Crime Commissioners are also responsible for meeting victims' rights under this and have a statutory duty to provide support for victims and to ensure compliance with the code.

### **Ask for their views**

Victims have a right to be asked for their views and for these to be taken into account when a disposal decision is made and where it is not possible for it to be explained why.

YJS management boards must therefore ensure there are arrangements in place to ensure that where possible victims are spoken to and their views obtained and understood before any out-of-court disposal decision is made. Where decisions are made jointly with the YJS, the victims views and what they want to happen should be understood, recorded and shared with decision makers.

It will not always be possible to dispose of a case the way a victim would like, this may be due to practical reasons such as the nature of the offence or the child's history. However, in these cases, victims should still feel listened to, and the reasons why it is not possible explained, along with what decision makers intend to do.

Out-of-court-disposal decision-making should not be delayed for the child if it is not possible to get a victim's views in a timely manner.

### **Restorative approaches**

Victims have a right to receive information about restorative justice processes from the YJS where the offence has been committed by a child.

Restorative justice is available across all out-of-court disposal options both formal and informal where:

- there is some form of intervention
- the child has accepted responsibility for the harm caused
- it is assessed as appropriate for both the child and the victim

YJS management boards should therefore ensure they have arrangements in place to offer a range of restorative justice processes, alongside out-of-court disposals.

The key performance indicator for victims introduced by the Ministry of Justice in April 2023 requires YJS's to record:

- the number of victims resulting from offences committed by children on the YJS caseload
- the number contacted
- the number of victims who were asked for their view prior to out-of-court-disposal decision making
- the number engaged with on restorative justice opportunities as well as those who requested, and were given, further information and support - including out-of-court disposals
- the number of victims who asked for additional support and how many were provided with information on appropriate victim support services should be counted

It is also important that victims are signposted to support if needed and are regularly updated.

The [National Police Chiefs' Council's Out of Court Disposal National Strategy 2022-2027](#) sets out its vision to:

...to drive down reoffending rates through the use of out-of-court disposals and diversionary interventions which change the offending behaviour. We will have a system that's fair to all keeping the offender and victim at the heart of everything we do and ensures their specific needs are considered.

How to consider diversity and disproportionality in the use of out-of-court disposals , [Hide](#)  
Children from some groups are overrepresented within children receiving statutory out-of-court disposals, when compared to non-statutory out-of-court disposals. This includes children from some ethnicities and care experienced children.

Find out more about [how to adapt for a child's race and ethnicity](#).

You should regularly review and analyse data on the children given out-of-court disposals in your area by:

- ethnicity
- care experience
- other protected characteristics

This is to understand the nature and extent of any disparity in accessing diversion. You should then report this to local management boards. If there is an under representation of any group in your area in non-statutory out-of-court disposals, or over representation in statutory out-of-court disposals you should discuss it at your management board and set in place measures to explain or address it.

You should give careful attention to diversity and disproportionality factors at an early stage in the decision-making process and within [monitoring and scrutiny arrangements](#) of out-of-court disposals.

Particular attention should be paid to ensuring that eligibility criteria for non-statutory out-of-court disposals is flexible. Where appropriate children should be given [more than one opportunity for diversion](#) and the eligibility criteria should not require a full admission. This is because some children from communities with lower levels of trust in the criminal justice system might be less likely to make a formal admission of guilt.

Youth justice services should work with partners to embed anti-racist and anti-discriminatory practice in their approach to diversion. They should also ensure that there are robust scrutiny arrangements in place.

You should ensure that arrangements are in place to ensure that children from ethnic minorities and children who are care experienced can be diverted into appropriate services which meet their needs and that any barriers to their engagement are understood and overcome.

### **How to help children and families understand the implications of convictions and disclosure requirements**

The [Child Gravity Matrix](#) provides details of disclosure requirements against each disposal in its disposal table. Whilst out-of-court disposals are not automatically disclosed as part of a standard or enhanced Disclosure and Barring Service check, they could be disclosed as part of an enhanced Disclosure and Barring Service check if the police consider it relevant.

Formal out-of-court disposals (Youth Cautions and Youth Conditional Cautions) are not removed from the Police National Computer and could be taken into account in future criminal proceedings and disclosed to prospective employers.

Whilst it is rare for the police to include information on an enhanced Disclosure and Barring Service check that doesn't relate to a conviction, youth justice services should ensure that children and families are made aware of this possibility, particularly for Youth Cautions and Youth Conditional Cautions. The Youth Justice Legal Centre have produced [information sheets](#) for children and families to help them to understand the implications of convictions and cautions and what it means for them.

### **The scrutiny arrangements for out-of-court disposals**

It is the responsibility of youth justice service (YJS) management boards to ensure the quality of out-of-court disposals being delivered in their area and to develop and deliver improvements where required. Further details are set in Standard 1 (out-of-court disposals) of the [standards for children in the youth justice system \(2019\)](#).

YJS management boards should be provided with regular, comprehensive data and information regarding the use and effectiveness of all out-of-court disposals, both informal and formal, including those issued by the police without the involvement of the YJS.

We would encourage police forces to record data on diversionary outcomes and non-statutory out-of-court disposals. There must be a focus on the views and experiences of children, including understanding their needs, the nature and extent of any disparities and on monitoring outcomes. This will support the drive and focus of appropriate resources and interventions and address disproportionality where it is evident.

### **National key performance indicators**

The [key performance indicators](#) (KPI's) for youth justice services, require YJS's to record performance for all children on the YJS caseload, rather than just statutory casework. This supports the YJS management board in understanding of the needs of the entire complex cohort of children YJS's are working with, including children given out-of-court disposals.

There are specific requirements within the KPI's which will support the board in their assurance and oversight of out-of-court disposals, these include:

#### **First time entrants**

The first time entrants performance indicator provides a helpful overview of how many children are entering the criminal justice system at a local level, against various comparator groups.

#### **Out-of-court disposals**

The out-of-court disposals performance indicator requires YJS's to record the number of children completing and not completing out-of-court disposal interventions. This will provide the YJS management board with assurance that interventions attached to out-of-court disposals are being completed and that children are achieving positive outcomes.

#### **Victims**

The key performance indicator for victims requires YJSs to record the number of victims resulting from offences committed by children, the number contacted, and the number engaged with on restorative justice opportunities as well as those who requested, and were given, further information and support. YJSs are also required to record the number of victims asked their view prior to out-of-court disposal

decision making. This will provide the YJS management board with assurance that the victims code is being complied with and that victims' rights are being protected.

YJS management boards should review progress against these indicators to improve their understanding of the effectiveness of out-of-court disposals and inform service development and planning.

### **Local performance indicators**

Comprehensive local reporting on out-of-court disposals to the YJS management board, should provide additional assurances as to the quality of out-of-court disposals being delivered in a timely manner and the needs of this cohort of children.

This could include but is not limited to the:

- number and type of out-of-court disposals issued, broken down by disposal type
- numbers of children reoffending following an out-of-court disposal, broken down by disposal type and seriousness of reoffending - it is recommended that local tracking covers the period of 12+6 months to align with published reoffending data
- number of first-time entrants subject to previous formal or informal out-of-court disposals and release under investigation
- demographics of children subject to out-of-court disposals by disposal type including age, ethnicity, gender, education and social care status, offence type
- number of children receiving repeated informal out-of-court disposals
- timeliness of interventions- offence to disposal/intervention

In addition, the YJS management board should be provided with qualitative information on out-of-court disposals.

This could include but is not limited to:

- feedback from children and parents/carers- it is important to actively collaborate and engage children to gather feedback, evaluate practice and support the delivery of services.
- feedback from victims, including victim satisfaction
- case studies
- results of out-of-court scrutiny panels

### **Referrals**

With regards to referrals, monitoring of the diversion scheme should also include oversight and assurance that all appropriate cases are being referred to the scheme by the police and that there have not been missed opportunities for diversion.

YJS management boards should seek assurance that the YJS is notified of all relevant outcomes in a timely manner and that these decisions have been effective in meeting children's needs and reducing reoffending.

### **Out-of-court disposal scrutiny panels**

Scrutiny panels should be in place within each force area and consist of:

- police

- Crown Prosecution Service
- Office of the Police and Crime Commissioner
- YJS
- Probation
- magistrates
- Independent Advisory Group
- a representative for the victim's voice
- any other person deemed relevant for the panel, including a representative from the Youth Justice Board's regional oversight team

The panel will review the use of out-of-court disposals on a series of cases quarterly to consider whether they are appropriate or not. These must include a selection of cases involving children. Best practice would be separate and distinct scrutiny panels for consideration of the use of out-of-court disposals for children and the removal of characteristics unless relevant to the case. Panels should review cases in relation to disproportionality in the use of out-of-court disposals and identify ways to address this. The reviews should look at out-of-court disposals as a whole, as well as in relation to each individual out-of-court disposal option.

The panel cannot overturn decisions; however, learning or good practice may be shared with decision makers and more widely as required. Results should be shared with YJS management boards to support their understanding of the effectiveness of out-of-court disposals in their area.

Out-of-court disposal scrutiny panels consider the appropriateness of decisions, rather than the effectiveness of the interventions themselves. Additional scrutiny is therefore required by YJS management boards as to the effectiveness of interventions being delivered for out-of-court disposals.

### **Management oversight**

The youth justice service (YJS) should also ensure effective arrangements in place for out-of-court disposals which include:

- effective management oversight of out-of-court disposal practice including assessments, planning and interventions and any practice areas requiring further development notified to the YJS management board
- regular audits of out-of-court work should be undertaken and findings reported to the YJS management board

This is a complex area of work that requires specialist skills, including enhanced screening and assessment practice and informed and up to date knowledge on out-of-court disposals. Reduced caseloads are encouraged due to the benefits of effective diversionary activity in improving outcomes for children, victims and the community. Statutory casework should not take priority when determining resourcing as out-of-court work needs to be done properly, with workers being given the time and space they need to plan and deliver interventions and build relationships with children.

### **Youth justice plans**

Youth justice services (YJS's) are required set out the strategy and processes in place for diversion across the local partnership in their annual Youth Justice Plan. [Youth justice plans: guidance for youth justice services](#) This should include how children are identified, how services are delivered and by whom and how

success is evaluated. Local policies and procedures should also be regularly reviewed and updated as required.

### **Evidence of effective use of out-of-court disposals**

The following outcomes are a good gauge of the effective use of out-of-court disposals:

1. There is evidence of out-of-court disposals impact on reducing reoffending rates.
2. There is evidence of an increase in victim satisfaction.
3. There is consistent collecting and recording of data and this is used to improve service delivery and outcomes for children and victims.
4. There is evidence of a reduction in disproportionality in the use of out-of-court disposals which is evidenced through data and there is equality of access to diversion for all children regardless of age, race or background.
5. National guidance is being followed, including the Child Gravity Matrix, Outcome 22 and Community Resolution guidance.
6. The Youth Justice Board's youth justice plan guidance is followed, and its Data Recording Requirements are being adhered to.
7. There is evidence of a reduction of children becoming first time entrants.
8. There is evidence of improved experiences of children subject to out-of-court disposals.

Which out-of-court disposal cases are in scope for HMI Probation Inspection, [Hide](#)

Any out-of-court disposal with involvement from a youth justice service (YJS) will be in scope for inspection.

This includes where there is a linked offence and where the YJS is involved in screening, assessment, joint decision or delivering interventions. Wherever this work is to be delivered by another partner, there is a need to ensure consideration is given to appropriate training and experience and recording on YJS case management systems.

There should be effective links and oversight between services as overlaps in provision will be inevitable and out-of-court disposal work remains responsibility the of YJS's and local YJS management boards.

### **The resources available to support out-of-court disposal work**

There are a wide range of additional resources available to support out-of-court disposal practice.

These include but are not limited to:

#### **The Youth Justice Board Resource Hub**

The [Youth Justice Resource Hub](#) includes a wide range of practice examples and practice resources.

#### **The Youth Endowment Fund website**

The website of the [Youth Endowment Fund](#) and its [Toolkit](#) are useful. The Toolkit summarises research evidence about different approaches to keeping children safe from involvement in violence. It is based on evidence about what has happened when these approaches have been used before. It summarises the evidence on the impact of approaches, the quality of that evidence, as well as indicative costs and links to related resources and programmes.

### **The Centre for Justice Innovation**

The [Centre for Justice Innovation](#), website includes a 'valuing youth diversion toolkit'. It includes details of how to access its free Youth Diversion Effective Practice Award. It also has a 'what is Diversion video' and a wide range of research papers and briefing notes to support practitioners in the justice system develop and share innovative and effective practice.

### **The National Police Chiefs' Council**

The [National Police Chiefs' Council](#) provides guidance documents to support the delivery of out-of-court disposals including the Child Gravity Matrix, Outcome 22 guidance and Community Resolution guidance. There is also the out-of-court disposals national strategy and the child centred policing strategy and best practice framework.

### **HMI Probation**

[HMI Probation](#) has a range of resources which include research and analysis of the implementation and delivery of Community Resolutions and the role of youth justice services and their inspection standards.

### **The Crown Prosecution Service (CPS)**

The CPS has published revised guidance on [Children as suspects and defendants](#). The guidance has been updated to reflect the changing landscape of the youth justice system towards a Child First approach, incorporating all recent policy, legislative and terminology updates. The guidance includes the CPS policy on diversion from the court process and updated Youth Cautions and Youth Conditional Cautions guidance.

Further information on Youth Cautions and Youth Conditional Cautions can be found in the Ministry of Justice (MOJ) [Code of Practice for Youth Conditional Cautions](#). This guidance replaces the YJB's and MOJ's 'Youth Cautions guidance for Police and Youth Offending Teams' (April 2013 ).

1. Diversionary activity needs to be completed for an Outcome 22 to be applied. Please see the NPCC [Outcome 22 Guidance](#) for more information. [↔](#)

## Definitions

A list of some of the terms used in this manual and their definitions.

Term	Definition
Appropriate adult	When we refer to an appropriate adult, as required under the Police and Criminal Evidence Act 1984 and accompanying Codes of Practice, we are describing; the parent or guardian, a person representing that authority or organisation, if the child is in local authority or voluntary organisation care, or is otherwise being looked after under the Children Act 1989 or the Social Services and Well-being (Wales) Act 2014, a social worker of a local authority, an appropriate YJS worker, another responsible adult aged over 18
Child First	The YJB is using its influence to bring about change in the youth justice system so that those in it are seen as children first rather than as offenders.
Children	We define a child as anyone who has not yet reached their 18th birthday. This is in line with the United Nations Convention on the Rights of the Child and civil legislation in England and Wales. The fact that a child has reached 16 years of age, is living independently or is in further education, is a member of the armed forces, is in hospital or in custody in the secure estate, does not change their status or entitlements to services or protection.
Connectivity	Connectivity is the secure electronic system for transferring case data between youth justice services, the YJB and the secure estate.

Term	Definition
Child looked-after	A child who has been in the care of their local authority for more than 24 hours has 'looked-after' status. Whilst looked-after child remains the statutory description, 'child looked-after', 'child with care experience' or 'child in care' are also terms which are used.
Pro-social identity	Children see themselves as someone who will benefit other people or society as a whole and are less likely to get involved in negative or criminal activity.
Scaled Approach	The Scaled Approach is a term previously used in youth justice to describe a system for determining the degree of intervention a child should receive based on their assessment. With the change to a Child First approach, the advice on determining how often you should see a child has been <a href="#">revised</a> . It is much less prescriptive and is now based on each child's individual needs.
Secure children's home (SCH)	Some SCH's look after children detained by the courts as well as those on welfare grounds. For the purposes of this guidance, when we refer to SCHs we mean the former.
Secure training centre (STC)	STCs accommodate children aged 12-18. STCs have a higher staff to child ratio, compared to YOIs, and are smaller in size.
Self-identity	This is how a child sees themselves and their place in the world. If a child has a pro-social identity then they feel empowered to make the right

Term	Definition
	choices in their behaviour and with wider life decisions, including relationships.
Sex	We use 'sex' to classify whether children are male or female as per the protected characteristics under the <a href="#">Equalities Act 2010</a> .
Vulnerability	When we use the term vulnerable with regards to a child, its use is in a specific technical, legal or regulatory sense. This is necessary because 'vulnerable' is an imprecise term and it can cover a broad range of characteristics and behaviours.
Wales	We will state, 'in England', where there are differences with Wales as a result of devolution.
Young adult	We define a young adult as someone who is 18 or over. For example, when a young adult is transferring to the adult probation service.
Young offender institution (YOI)	There are two types of YOI, one for 15 to 17-year-old boys and one for 18 to 21-year-olds. When we refer to YOIs within this guidance, we are only referring to the establishments that hold children.

Term	Definition
Youth Justice Sector Improvement Partnership (YJSIP)	The <a href="#">Youth Justice Sector Improvement Partnership (YJSIP)</a> is a tripartite partnership between the Youth Justice Board for England and Wales (YJB), the Association of YOT Managers (AYM) and senior youth justice leaders. The Partnership provides improvement support for the sector, by the sector and always with the sector.
Youth justice service (YJS)	Throughout this guidance we now refer to ‘youth justice services’ rather than the statutory definition of youth offending team. This is to acknowledge the evolution of services in all their guises and to move away from the stigmatising language of ‘offending’.
YJS management board	A YJS management board, also known as a YJS partnership board, should be formed to provide strategic direction with the aim of preventing offending by children. The role of the YJS management board is to determine how the YJS(s) is to be composed and funded and how it will; operate and what functions it is to carry out, determine how appropriate youth justice services are to be provided and funded, oversee the formulation each year of a draft youth justice plan, oversee the appointment or designation of a YJS manager, agree measurable objectives linked to key performance indicators, including the standards for children in the youth justice system. Members of a YJS management board should be empowered with the capacity to make strategic decisions. The YJS management board oversees the budget.