

Youth Detention, including Bail and Remand

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1. Introduction and Purpose

[Bail Act 1976 \(legislation.gov.uk\)](#) (BA) applies to children and states that a child charged with an offence has a statutory right to bail, subject to statutory exceptions (Bail Act 1976 Schedule 1). This means that any child has the benefit of the presumption of bail as a starting point.

Article 37(1) of the UN [Convention on the Rights of the Child | OHCHR](#) provides that the decision to deprive a child of their liberty should be a measure of last resort.

The definition of detention refers to Youth Offending Teams in line with legislation. However, the rest of this policy will refer to Somerset's Youth Justice Team (SYJT) in line with local practice.

Youth Offending Teams should, where appropriate, assist the court with information relating to:

- Available bail packages (e.g. Bail Support Programmes);
- Available local authority accommodation (e.g. Remand Foster Care);
- Relevant conditions available that may be attached to a Remand to Local Authority Accommodation or bail;
- Which local authority should be designated by the Court where a child has been remanded to Local Authority Accommodation or Youth Detention Accommodation.

When a Looked After Child appears in court charged with an offence, the Somerset Youth Justice Team (SYJT) will work alongside the local authority, the Crown Prosecution Service (CPS) and the child's solicitor towards securing bail for the child.

Under the [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(legislation.gov.uk\)](#) (LASPO) as amended by the [Police, Crime, Sentencing and Courts Act 2022 \(legislation.gov.uk\)](#), all children who are charged with an offence and refused bail must be remanded into Local Authority Accommodation, or (where certain criteria are met) Youth Detention Accommodation. In both situations, the cost of this accommodation must be met by the designated local authority, and the child will attain a Looked After Status.

One of the objectives of the 2022 Act is to ensure that custodial remand is always used as a last resort. That Act also introduced a statutory duty for the Court to consider the best interests and welfare of the child when making their decision.

If a child presents a level of risk (be it of harm or offending), it should not follow that the child should be remanded to custody if that risk can be managed safely in the community. The Court must weigh each case against the strict conditions for remands to Youth Detention Accommodation set out in s98 and 99 of LASPO 2012 (amendments to Youth Remand Framework by the Police, Crime and Sentencing Courts Act 2022. [New MOJ flowchart for remand to YDA \(yjlc.uk\)](#)). For charges related to the most serious offences, the Crown Court will follow the same tests and has the options of granting bail, remand to Local Authority Accommodation or remand to Youth Detention Accommodation.

2. Scope of Policy

This policy provides an overview of the procedures for children who are charged to Court for criminal offences and who remain in the Court process, prior to any sentencing or other outcome for the offence(s). The policy will set out Somerset Youth Justice Team (YJT) processes in relation to Bail and Remand.

The policy will identify how Somerset YJT manage this process and minimise the use of custodial remand for children. This will include how Somerset YJT:

- take a child first, trauma-informed approach.
- proactively offer services to children from arrest through to sentence.
- respond to children at each stage to reduce use of remand.
- identify children at risk of remand with assessment and review.
- 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.
- effectively liaise with the police, Courts and other agencies.
- regularly review remand decisions.
- monitor and evaluate outcomes and data and where relevant in partnership with other agencies, particularly for over-represented groups and where disproportionality may be evident, as outlined in other relevant policies, including the [Somerset Youth Justice Diversity and Inclusion Policy](#).

3. Legal Context

This policy should be read in conjunction with the following:

[Case management guidance - How to manage bail and remands - Guidance - GOV.UK \(www.gov.uk\)](#)

[Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(legislation.gov.uk\)](#)

[Youth custodial remand: Police, Crime, Sentencing and Courts Act 2022 factsheet - GOV.UK \(www.gov.uk\)](#)

His Majesty's Prison and Probation Service - [\[HMPPS Child Safeguarding Policy Framework \(Ministry of Justice\) \(publishing.service.gov.uk\)\]](#)

Somerset Youth Justice Team - [Bail and Remand procedures January 2023.docx](#)

Somerset Procedures online - [Remands to Local Authority Accommodation or to Youth Detention Accommodation \(proceduresonline.com\)](#)

Youth Justice Legal Centre Learning Guide - [#01 Turning 18 - May 2024 \(yjlc.uk\)](#)

[Somerset Youth Justice Team Diversity and Inclusion Policy](#)

[The Somerset Youth Justice Team Resettlement Policy](#)

4. The Right to Bail

The Bail Act sets out the general right to bail for all children and the Court must always comply with The Bail Act 1976 in regard to any child appearing in Court, charged with an offence. For some offences there is an exception of the Right to Bail. These include a charge for murder, attempt murder, manslaughter or certain serious sexual offences, if the defendant has certain, specified previous convictions (see [s25\(2\) Criminal Justice and Public Order Act 1994 \(legislation.gov.uk\)](#)). There remains opportunity for the Court to consider bail, only if there are exceptional circumstances to justify it.

Somerset YJT receive overnight custody logs from Avon & Somerset Police and are notified by the seconded SYJT Police staff of any child who is charged to Court for an offence. The SYJT will communicate with CSC to request their representation (when relevant) at the Court hearing, to support any bail and remand considerations. Somerset YJT will meet with the child to complete a custody welfare check and pre-court discussion, which includes ensuring their welfare needs have been considered and they have received appropriate support during any period in police custody.

The options the Court will consider at each hearing are:

Whether the child should be placed on:

- **Unconditional bail** – *there are no restrictions or conditions placed on the child.*
- **Receive bail with conditions** - *see below for types of common bail conditions.*
- **Be remanded to the Local Authority** – *the LA is responsible for providing the most suitable accommodation for a child. This can be living at home with a relative, in foster care or in a children's home.*
- **Be remanded to Youth Detention Accommodation** – *this comprises the following kinds of accommodation: secure children's home, secure training centre, a young offender institution.*

5. Where Bail is Refused

The Court can only refuse bail for the child if there are substantial grounds that one of the statutory objections to bail exist in relation to the child. These are:

- Failure to surrender to custody
- Committing an offence on bail
- Interfering with witnesses
- Obstructing the course of justice
- For their own protection

Somerset YJT will initially seek to understand any challenges to unconditional bail through communication with the Crown Prosecution Service and seek to understand any other agency concerns that may be taken into consideration by the Court (e.g. police [Form-MG7.doc \(live.com\)](#) MG7 – Remand in Custody Application which sets out any concerns they have and also a proposal to the Court of what they believe will effectively manage those concerns).

SYJT will have contact with the child's parent/carers, to understand the current context for the child and ensure they are appropriately supported.

Somerset YJT will always notify Somerset Childrens Social Care (or other Local Authority/ Home YJT if the child is from out of county) of any Court appearance, to ensure that the child has appropriate oversight and support as necessary to manage the process. Communication with other agencies will be undertaken relative to the context of the situation.

SYJT practitioners should be aware of the expectations and responsibilities of children's social care representation and support for children who are in Court for bail and remand considerations, which are set out in Somerset Procedures online - [Remands to Local Authority Accommodation or to Youth Detention Accommodation \(proceduresonline.com\)](http://proceduresonline.com).

6. Conditional Bail

Should there be any challenges to unconditional bail, Somerset YJT will seek to mitigate any concerns raised, by exploring appropriate conditions which will satisfy the Court and contribute to effective safeguarding and risk management. This will always include the context of the offence(s), as well as the circumstances for the child to ensure that bail conditions, (if required) appropriately address all concerns raised. Somerset YJT will liaise with respective parties (parents/carers and/or CSC) to confirm that conditions made available for the Court to consider, are able to be put in place. For example, tagged curfew, confirmed address.

Somerset YJT will communicate with CPS and the defence solicitor when a bail application is being considered, to provide appropriate contextual information to the Court to support bail decisions being made.

7. Common Bail Conditions

- **Doorstep Curfew** - *the curfew condition requires the child bailed to stay at their bail address during specified hours.*
- **Curfew with electronic monitoring** - *(if the child is 12 or over and has been charged with an imprisonable offence – schedule 15 offences).*
- **Reporting to the police station** – *daily, weekly, nominated days.*
- **To live and sleep at** (agreed address)
- **Restrictions from entering certain areas**
- **No direct or indirect contact with co-defendants and/or victims;** - *restricted contact will apply to specific named person/s.*
- **If the charge is in relation to county lines/exploitation consider** - *Not to have possession or use of any internet enabled devices other than the standard mobile phone and sim card that will be provided by CSC/YJT – to be able to communicate with emergency services, agreed professionals and family only.*

In addition to the above, SYJT can offer a Bail Support and Supervision Package as a bail condition - (agreed number of contacts per week or as directed by the SYJT) which can include:

- Reinforcement of the necessity to comply with bail conditions and the consequences of non-compliance.
- Support and give advice to the placement / parents /carers.
- Provide support for substance misuse.
- Completion of support programmes – e.g. emotional regulation, anger management, healthy relationships.
- Training, education and employment support.
- Support to understand the Court process and assistance in attendance at Court and other related appointments.
- Measures to address risk and safety and wellbeing factors.
- Support to explore constructive use of leisure time.

The Court should only remand a child as a measure of last resort and should always consider other options which are available. Somerset YJT can offer the Court, Bail ISS (Intensive Supervision and Support), as a direct alternative to remand which will offer a package of oversight and support of up to 25 hours per week and which includes curfew with electronic monitoring.

Should the Court not consider Bail ISS as an alternative to Youth Detention Accommodation, the Court need to consider remand to the care of the Local Authority as an alternative. Should this be the outcome, Court can also consider putting conditions in place alongside Remand to Care of the Local Authority, which can reflect any of the bail conditions outlined above.

Any child relevant to SYJT Bail Support and Supervision Package will have a full AssetPlus assessment completed to inform appropriate intervention and support.

SYJT will complete an AssetPlus bail recommendation stage for any child who is at risk of remand. This will evidence and support SYJT to appropriately address any objections to bail and will also capture any concerns for that child should they become relevant to remand.

8. Remand

If a child has been refused bail and the conditions are met under S98/99 of Legal Aid, Sentencing and Punishment of Offenders Act 2012, the Court must have

consideration of Remand to the Care of the Local Authority before they move to consideration of Remand to Youth Detention Accommodation. Should Court make the decision to remand a child to Youth Detention Accommodation, they must always provide a rationale in the Court to support this decision. Any child who is remanded to Youth Detention Accommodation becomes 'looked after' by the relevant local authority, who will therefore have a duty of care for the child.

The Somerset YJT will complete the bail recommendation stage including the custody module and will share with the Youth Custody Service, who are responsible for placing children at the most appropriate custodial establishment, based on the child's needs and consideration of risk and safeguarding. Information shared, includes: a child's age, sex, vulnerability, specific characteristics (including their cognitive age), physical, emotional and mental health difficulties, associations with others and previous experience of custody. The assessment will also be shared with the agreed placement, to ensure they have appropriate information to support the child.

Somerset YJT will align practice with case management guidance for children who are remanded to Youth Detention Accommodation. This will include expected level of direct contact and communication with the child and custodial establishment as well as consistent communication with parents/ carers, including their involvement in all relevant meetings regarding their child.

The custodial establishment have responsibility for the ongoing reviews of AssetPlus. Somerset YJT will ensure copies of all documentation pertaining to the child, which will be sourced directly from the custodial establishment and the Youth Justice Application Framework (accessible online platform available to YJT's and secure estate) is saved on the child's file on Pathways.

9. Custody time limits

Custody time limits apply to children who are remanded to Youth Detention Accommodation and those remanded to Local Authority Accommodation. They are set out in s.23 of the [Children and Young Persons Act 1969 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

The same custody time limits apply to Remand to Local Authority Accommodation, as they do to Remand to Youth Detention Accommodation. A decision about the outcome for the child in relation to sentencing must be made by the relevant Court before the lapse of the custody time limit: time limits are 56 days in the Magistrates Court and Youth Court; and 182 days in the Crown Court, from the date of sending.

10. Remand Planning

When a child is remanded into Youth Detention Accommodation, Somerset YJT will continue to explore opportunities for alternatives to custody. There will be consideration and review of the package of support that could be made available to the Court, which may support reconsideration by the Court of bail. Somerset YJT will seek to liaise with the child's defence solicitor and/or barrister in relation to any bail applications that are being considered.

11. Allocation

If a child becomes relevant to Bail Support and Supervision, Remand to the Care of the Local Authority or Remand to Youth Detention Accommodation, they will be allocated a Somerset YJT Practitioner who will manage the child's case.

12. Bail Duty

Somerset YJT have bail and remand duty guidance in place, which supports attendance at Court in relation to bail and remand cases and sets out procedural guidance to be followed by SYJT staff (including at the weekend and bank holidays). [Bail and Remand procedures January 2023.docx](#), which can be accessed on the YOT Offending Service SharePoint/YJT Practice/Court Paperwork for Practitioners.