

Enabling Compliance and Enforcement Policy

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Introduction

YJB Nationals Standards and Case Management Guidance give clear directions to case managers regarding enabling compliance and enforcement. This policy does not seek to replace national guidance or case management guidance, however it is designed to provide a local interpretation on good practice and principles for how we respond to non-compliance and enforcement locally. This policy should be read in line with the YJB case management guidance.

1. Our Principles:

- a) All Staff should clearly outline YOS expectations to both the young person and parents about the requirements of the order from the very outset. Staff should also inform young people and parents of the consequences of failure to comply with orders.
- b) Staff should make every effort to Enable Compliance and support the young person to successfully complete an order.
- c) Case managers should always use their professional judgement and exercise their professional discretion in relation to the enforcement of orders. Where case managers choose to exercise their professional discretion to depart from the required enforcement arrangements in National Standards they should always discuss with a manager and document the decision on Capita One Database.
- d) Managers will use greater discretion and professional judgement to 'lengthen the road to breach' in the management of statutory orders, including decisions about breach actions.
- e) The YOS will utilise flexible and responsive ways including compliance panels and restorative approaches and partnership work to address and support compliance.
- f) Effective communication and participation with young people and parents/carers is central to enabling compliance.
- g) All Staff should evidence the steps that they have taken to engage and support young people in the context of their family and support network.
- h) Staff should outline the benefits of engagement with statutory disposals to young people and parents/carers including early revocation when appropriate. An application for early revocation can be made at half way stage of an order if all requirements of the intervention plan have been completed.
- i) Ensuring the sentence is served is important in maintaining public confidence and credibility in Leicester Youth Offending Service so it is important that stringent enforcement is applied in cases where there is an escalation of risk of harm and reoffending in order to protect the public.

2. Enforcement Decision Making

2.1 In determining whether any reasons given for non-compliance are acceptable, the case manager must take into account the following:

- The young person's welfare needs (safety and well-being)
- Evidence of further offending
- Risk of Harm posed by the young person
- Previous behaviour
- Culpability – did the young person have control over circumstances?
- Diversity
- Overall progress and their motivation to complete the order

- Evidence Test: would it be possible to provide documentary evidence to support explanation (e.g. doctor's note)
- Is there a reasonable prospect of breach being proven
- National and local guidance

2.2 It is important that practitioners exercise their professional judgement and discretion in making decisions in relation to enforcement as well as seeking management approval and support.

Responding to non-compliance- Practice implications:

2.3 Compliance and Enforcement must be managed by YOS locally in the following way in accordance with good practice and YJB National Standards (please refer to Case Management Guidance and YJB National Standards). Case managers and practitioners are required to:

- Record any events where the child or young person fails to attend or comply with an order as either acceptable or unacceptable.
- Follow up all failures within one working day, ideally via a home visit. If a home visit isn't possible then this can be followed up by telephone or letter to determine whether the reason is acceptable or unacceptable.
- Where a young person's fails to attend and the explanation given is unacceptable (or no explanation is given within 24 hours) issue a formal warning. The first warning must be followed up by the case manager to identify any barriers around their engagement.
- Where two formal warnings are given (for Youth Rehabilitation Order(YRO), Referral order and Youth Conditional Caution (YCC) then you must inform your line manager and arrange a home visit to complete a reengagement meeting. The reengagement meeting should be normally chaired by the case manager and involve key specialists (Youth Advocate etc) who are central to supporting the young person's engagement. The meeting will be a further opportunity to address barriers to engagement, diversity, speech language, communication, review behaviour contract and any actions to support their level of engagement with their order/disposal.
- If a further unacceptable failure to attend takes place then you must discuss with your line manager whether breach action should be initiated or whether an alternative approach is needed such as referring case to compliance panel, or a restorative approach.
- When there is a single serious unacceptable failure to comply, breach action can be initiated immediately. However this must be discussed and agreed with your line manager.
- If it has been agreed following discussion with management that breach action should be pursued then this should be initiated within 5 working days.
- All decisions in relation to enforcement and compliance must be recorded on Capita Database (please see flowchart- Appendix A).

2.4 Failure to Comply with Breach of Bail supervision and Support (BSS) and Bail Intensive Supervision and Surveillance (BISS)

- If a young person fails to comply with BSS and BISS conditions, you should follow up by a phone call or home visit within 24 hours, to determine whether absence is

acceptable. If the absence is deemed as unacceptable then a written warning must be issued.

- Once one written warning has been issued and there is a further instance of non-compliance then breach action should be initiated. You may also initiate breach action for one instance of serious behaviour.
- Breach proceedings are instigated by completing a Section 9 witness statement with assistance from our Seconded Police Officer. The young person should be advised that breach has been instigated once the neighbourhood police have receipt of the Section 9 Statement.
- Once the police are in receipt of the information, then young people should be advised to present to their nearest police station to appear in Court at the earliest opportunity.
- The Section 9 statement needs to be included in documents within CAPITA as well as the case manager and Team Manager including any recommendations on bail/remand decision.
- Any recommendations should take into account the factors highlighted in 2.1 of this guidance.

2.5 Non-compliance with Remand to Local Authority Accommodation (RTLAA)

- A young person who is missing from his/her placement is “unlawfully at large”. The young person can be detained by the police and returned to his/her placement. His/her remand status will be reviewed every four weeks by the court and the case manager should prepare an update for the court regarding any absconding by the young person.

2.6 Breach of Curfew violations

- The Police are responsible for enforcement of bail conditions, and therefore any concerns held by YOS’s about young people breaching electronically-monitored bail conditions should be referred to the police in the first instance in the same way as other breaches of bail conditions are. EMS are also to be notified of the circumstances where the breach is suspected to be as a result of any misuse of the electronic monitoring equipment.
- The YOS are responsible for enforcing through the courts all electronic monitoring requirements including Youth Rehabilitation Order (YRO) with curfew requirements (including YRO stand-alone curfews- only court facing responsibilities) and curfew conditions attached to DTO/section 90 Orders.
- Where a young person is on a stand-alone YRO Curfew requirement EMS will be responsible for issuing warning letters for first and second level less serious violations and completing the breach pack and listings. However the YOS will be responsible for prosecuting breaches and making recommendations to the Court.
- For all other electronic monitored orders the YOS will be responsible for both warnings and breach action. According to YJB guidance with EMS there are two levels (More Serious Levels and Less serious Level at which a violation of a curfew requirement or condition may take place:

More Serious Level

Violation occurs when:

- there is an absence from the curfew address which amounts to an entire curfew period.
- one or more absences from the curfew address occur where the total lengths aggregate to a period of two hours or more, where the young person has already received two formal warnings for previous curfew or tamper violations
- any tamper violation occurs, where the subject has already received two formal written warnings for curfew or tamper violations
- any removal of equipment fitted to the young person or damage causing the non-functioning of any part of the equipment takes place
- the young person is absent/fails to make themselves available for the installation of the electronic monitoring equipment on a second occasion
- the young person threatens or commits physical assault against monitoring staff
- the young person withdraws consent to installation of the electronic equipment.
- any tamper violation, or second tamper takes place, apart from removal of the equipment fitted to the young person or damage causing non-functioning of any part of the equipment.

Less Serious Level

Violation occurs when:

- one or more absences from the curfew address amounting to a period of two hours or more but less than a whole curfew period
- a second series of one or more absences from the curfew address, amounting to a period of two hours or more but less than a whole curfew period

NB *In respect of bail curfews only, any absence exceeding 15 minutes is usually reported by EMS to the Police within one hour of the violation occurring.*

- Where EMS has substantiated evidence that a less or more serious level violation has occurred they will notify the YOS within three working days via secure email an Agency Notification Report to the YOT worker asking what action is to be taken. The YOS must respond via the following email address EMSEnforcement@EMS.co.uk.cjism.net
- Guidance is offered that for an initial and second less serious level violation, the YOS should send a standard warning letter to the young person within one working day of the incident coming to notice unless the Team manager use their discretion not to. The YOT will complete and return (via secure email) page four of the Agency Notification Report (see Appendix B) and a copy of the warning letter within two days from the reported violation and send to EMS Secure email address.
- For a more serious level violation or a third less serious level violation, the YOT must take breach action unless a decision is made by the YOT manager or their designated officer not to do so. If no breach action is to be taken the YOT must complete page four of Appendix B that informs EMS of the decision.

NB The process allows two warnings for less serious violations prior to breach action. However, where a more serious violation action occurs then breach action is to be taken immediately.
- A note must be entered onto the young person's electronic file detailing why the decision was taken not to instigate breach action.
- If the decision is to take breach action then the case must be listed at court and the YOT will complete the relevant section of Appendix B.

3. Specialists Services

3.1. The following provides guidance around enforcement relating to appointment with specialist services. It is also necessary to refer to specific YOS Policies relating to individual specialist service provision.

3.2. **IMPORTANT NOTE:**

Voluntary appointments with a specialist service (including YOS advocates) can be classed as a National Standard contact if the young person attends.

However, if the young person fails to attend a voluntary appointment, this is not enforceable and the YOS Case Manager should offer an alternative appointment.

Substance Misuse

3.3. When a Young Person has been identified through YOS assessment as requiring substance misuse intervention, then an assessment should be completed by a specialist substance misuse worker (after the completion of the ASSET Plus alcohol screening tool).

3.4. Whilst ideally the assessment should be done on a voluntary basis with informed consent, the assessment can take place on a statutory basis where there is a risk of substance use impacting on levels of risk; either to self or others.

3.5. Following the assessment, if the young person is deemed suitable for intervention, appointments can only be offered on a voluntary basis. can be classed as a National Standard contact if the young person attends but never enforced where there is failure to comply?

Education / Connexions

3.6. Case Managers should not make ETE contacts National Standard appointments, unless this has been agreed with the ETE specialist and ideally with the young person prior to the appointment.

3.7. Appointments for young people of statutory school age should not be offered during school hours.

CAMHS

3.8. All appointments with CAMHS must be made on a voluntary basis. can be classed as a National Standard contact if the young person attends but never enforced where there is failure to comply?

4. Compliance Panels

4.1 In a bid to ensure the sentence is served and to enable the young person to comply with their Order, Leicester YOS make use of Compliance Panels.

4.2 The purpose of the Compliance Panel is to provide Management oversight and intervention to escalate actions to address non-compliance.

4.3 Compliance Panels are not utilised for Referral Orders, as the Emergency Panel Meeting provides this function. They can however be used for all Orders and Youth Conditional Cautions (please also refer to local guidance on Out of Court Disposal Guidance).

4.4 WHEN?

Compliance Panels will usually take place at Breach Stage. However, they can sit at any point dependent on the individual needs of the case where it is felt that this process will be useful to avert Breach. Team Managers should take into account factors pertaining to point 2.1 (enforcement decision making) of this policy to determine whether a panel meeting should sit. Research does show that earlier the panel sits, the more successful the enabling compliance process will be.

4.5 WHO?

Compliance Panels will consist of:

Young Person

Parent/s / Carer/s

Case Manager Line Manager

No more than one specialist worker (if deemed necessary to support re-Engagement)

4.6 WHERE?

Compliance panel meeting must take place at the office as this both safeguards staff as well as provides an environment to best engage both the young person and parents/carers.

4.7 HOW?

Case Managers are responsible for arranging the Panel and they are required to fill out the 'Personal Details', 'Reasons For Compliance Panel' and 'Progress on Order' sections of the Compliance Panel proforma.

4.8 The Chair of the Panel will seek the views of the young person and all others present at the meeting in relation to non-compliance, barriers and any recommendations to improve engagement.

4.9 The Chair of the Panel will then make a decision based on the following list of options:

- 'Stay' breach - Action plan to support and promote compliance.
- Return to Court for Breach action proposing... Action plans to support and promote compliance.
- Returning the case for review at compliance panel following a period to test commitment.
- If breach action is 'stayed' or case returned to Court the compliance panel may wish to consider the following in the action plan with the young person and their parents / carers. This may include but is not limited to:
 - Re-signing the Contract of behaviour
 - Completing 'make-up' appointments
 - Testing compliance over a set period
 - A restorative approach depending on type of non-compliance particularly in circumstances of unacceptable behaviour
 - What is needed to promote compliance for the remainder of the order

- 4.10 All decisions must be recorded on Capita by the Chair and a copy of the paperwork should be attached to the paperclip.
- 4.11 If a decision has been made to instigate breach action then the case should be referred back to the relevant Court within 10 working days. Needs reviewing as they are not in breach at this point.
- 4.12 This Panel can reconvene more than once throughout the duration of a young person's Order although consideration should be given as to how worthwhile this may be dependent on whether there have been any changes in circumstances since the last Panel sat.

5. Listing Cases for Breach in Youth Court

- 5.1. Once a decision has been made to instigate breach proceedings, the Case Manager should list the Breach in Youth Court by telephoning the listing section of the Magistrates Court (Telephone 0116 255 3666). When listing a young person for breach at LYC/LMC, YOS officers will need to send the signed listings paperwork and court order to the following email address: leicenq@hmcts.gsi.gov.uk and yos.courtadmin@leicester.gcsx.gov.uk
- 5.2. A letter should also be sent to the young person telling them that they have been listed for breach and detailing the time and date of the hearing.
- 5.3. All Breaches of DTO must be returned to Youth Court regardless whether the Sentence was made at Crown Court

6. Listing Cases for Breach in Crown Court

- 6.1. YRO's which have been made by the Crown Court must be returned straight back to Crown Court (unless it is made in the Crown Court on appeal from the magistrates court the magistrates' court). in the event of breach, unless the judge specifically gives a direction that failures to comply can be dealt with in the Youth Court Court/Magistrates Court. If directions have been made for the case to be dealt with in the Youth Court then you are required to follow the same process for listing cases at Youth Court.
- 6.2. For Breaches in Crown Court you are required to contact Leicester Crown Court Listings on 0116 2225800 and list the case.
- 6.3. You are also required to complete the following tasks within 1 day of listing the case
- Summons
 - Listings for Crown Court
 - Breach Pack including Breach report, Breach checklist, Breach Evidence
 - Court Order
- 6.4. The above Breach Pack will need to be sent to the following email addresses: enquires@leicester.crowncourt.gsi.gov.uk and yos.courtadmin@leicester.gcsx.gov.uk
- 6.5. As the YOS have no "rights of audience" in the Crown Court, our prosecutions must be presented by barristers who are briefed by the respective Councils Legal Services. All Crown Court prosecutions and applications must be directed through Leicester City Council Legal Services, Fourth Floor, City Hall (0116 4543010 / 0116 4541452) - John Moss/Katherine Jamieson, who will appoint a barrister.

6.6 It is the Case Manager's responsibility to appoint a barrister

7. Breach Reports

7.1. Breach reports should be completed a minimum of 2 days prior to the Court hearing.

7.2. Once it has been agreed that Breach action must be pursued, all Breach reports must be **gatekept by case manager's line manager** to ensure that we apply a consistent approach in terms of management oversight in supporting the young person's compliance on the orders. The breach report must be gatekept by the duty manager in the line manager's absence.

7.3. The case manager should ensure that they provide

- A copy of the Court listings,
- Copy of the order/licence.
- A breach checklist
- Enforcement letters.
- Curfew violations if applicable.
- Up to date PNC and copy of CPS paperwork in the likelihood that the court may wish to revoke and resentence the young person.
- Completed Risk assessment Form for execution of warrant

7.4. The case manager should ensure with the assistance of admin staff that 8 copies of the breach report are placed in the Court tray 2 days prior to the hearing along with the full Breach pack.

8. Contested Breaches

8.1. When a breach is contested, case managers must identify their availability to attend Court as a witness and also identify witnesses and check their availability. This information should be included on the Breach Checklist and submitted with the Breach report.

8.2. When a young person pleads not guilty and a trial date is set, Counsel will need to be instructed for the breach. The case manager should contact LCC legal service department on 0116 252 7029 to arrange a Counsel to represent the YOS.

8.3. In preparation for trial the case manager is required to prepare a breach trial pack which includes

- a copy of the breach report,
- a list of witnesses and what they will say in evidence including statement if possible,
- Details of the defence case if known,
- copies of enforcement letters,
- evidence of supporting compliance
- correspondence in relation to breach,
- a copy of the careworks contacts and appointments log,
- Copies of CPS paperwork

9. Breach of Section 90-92, 226 and 228 Licences

- 9.1. Due to the fact these Orders are not made regularly and also because the Breach process is fairly complex, specific guidance is provided below to compliment the guidance found in National Standards and Case Management Guidance:
- 9.2. If licence conditions are breached (including any re-offending) or there is behaviour that constitutes a heightened risk of serious harm to others, recall of the child or young person must be considered.
- 9.3. A decision not to recall must be approved by a Senior Manager (the YOS Service Manager or Head of Service) and be properly evidenced and recorded in Careworks.
- 9.4. If a decision is made not to recall, the Senior Manager must issue a warning letter.
- 9.5. Even for minor infringements no more than two warning letters should be issued before recall is commenced.
- 9.6. The Case Manager and their Team manager (or Duty manager in their absence) must determine whether a fixed-term recall, standard recall or emergency recall is recommended, based on the guidance and criteria set out in Probation Circular 14/2008 Post Release Enforcement- Recall and Further Release. This decision must be agreed and signed off by a Senior Manager. The final decision as to the type of recall rests with the Public Protection Casework Section within NOMS.
- 9.7. Where a decision is made to initiate recall the Case Manager must: Complete a recall request within 24 hours in line with Probation Circular 14/2008 (Annex E – See Special YOS/Standard Documents/ Breach Paperwork/ Recall) and have this signed by a Team Manager and a Senior Manager (as indicated in 11.1. above). If the request is for emergency recall, the recall request should be completed as a matter of urgency and the Public Protection Casework Section contacted by telephone to advise that an emergency recall request is being completed.
 - Submit the recall request report along with supporting paperwork to the Public Protection Casework Section of NOMS by secure email (or Fax) within 24 hours of the decision to recall being made. The supporting paperwork is as follows:
 - full recall request report and Integrated Intervention Plan
 - a copy of the licence
 - up-to-date copy of previous convictions
 - most recent pre-sentence report
 - form 5089 (court comments at sentence regarding licence conditions)
 - updated Asset and ROSH
 - Charge sheets (if applicable)
 - Send a copy of the recall request to the Placements and Casework Service so that they are aware of the young person's imminent return to custody.
- 9.8. Where a young person is returned to custody the Case Manager must prepare a Review of Re-Release Report by the Public Protection Casework Section / Parole Board (annex H of PC 14/2008) and submit this to the Public Protection Casework Section to arrive by

working day 14 following the young person's return to custody. The case manager should ensure that a copy is given to the young person. The report for consideration of re-release must contain:

- A review of assessments
- Any further information relevant to the risk that the young person presents
- ASSETPLUS / sentence plan
- A clear recommendation on release based on the evidence and the case manager's judgement of the young person's manageability in the community.
- Recall paperwork should be emailed to recall2@noms.gsi.gov.uk

9.9. If you have any query about the release and recall process for long-term sentence young people, contact the Public Protection Casework Section directly for advice using the following telephone number, Recall team 2 duty worker on 020 3334 0689 or out of hours recalls – 0300 303 208 .

10. Execution of Warrants and engaging with young people subject to warrants

10.1. When a Young Person open to us fails to attend Court for Breach or criminal matters and a warrant is issued, the following procedures will apply.

10.2. Business Support Team will notify the YOS Seconded Police Officers (adjournment notice) within one working day of the warrant being issued.

If it is determined it is HMCTS responsibility to execute the warrant, (only Reparation orders and medium/low risk) then Business Support Team will send the completed risk assessment form to the Civilian Enforcement Officers warrants team via secure email and copy email into contacts in Care works. There will be no requirement to send the risk assessment form if the police are executing the warrants.

10.3. The Police

- The Seconded YOS Police officer will prioritise cases where young people are identified as a priority due to risk of offending, DYO /future harmful behaviour and safety well -being levels.
- The Seconded Police Officer will liaise with both IOM Links and the neighbourhood Teams to ensure that warrants are executed in a timely manner.
- The Seconded YOS Police Officers will discuss with the YOS Team Manager and Police link and escalate any cases within their senior management structure if necessary.
- The Seconded Police officer will not be able to attend appointments as they will have a duty to execute the warrant and arrest the young people

10.4. Case Managers and Advocates

The Case Manager must continue to offer appointments (not NS) and attend the home visits with the role of actively encouraging young people to surrender to a warrant. No intervention work should be offered.

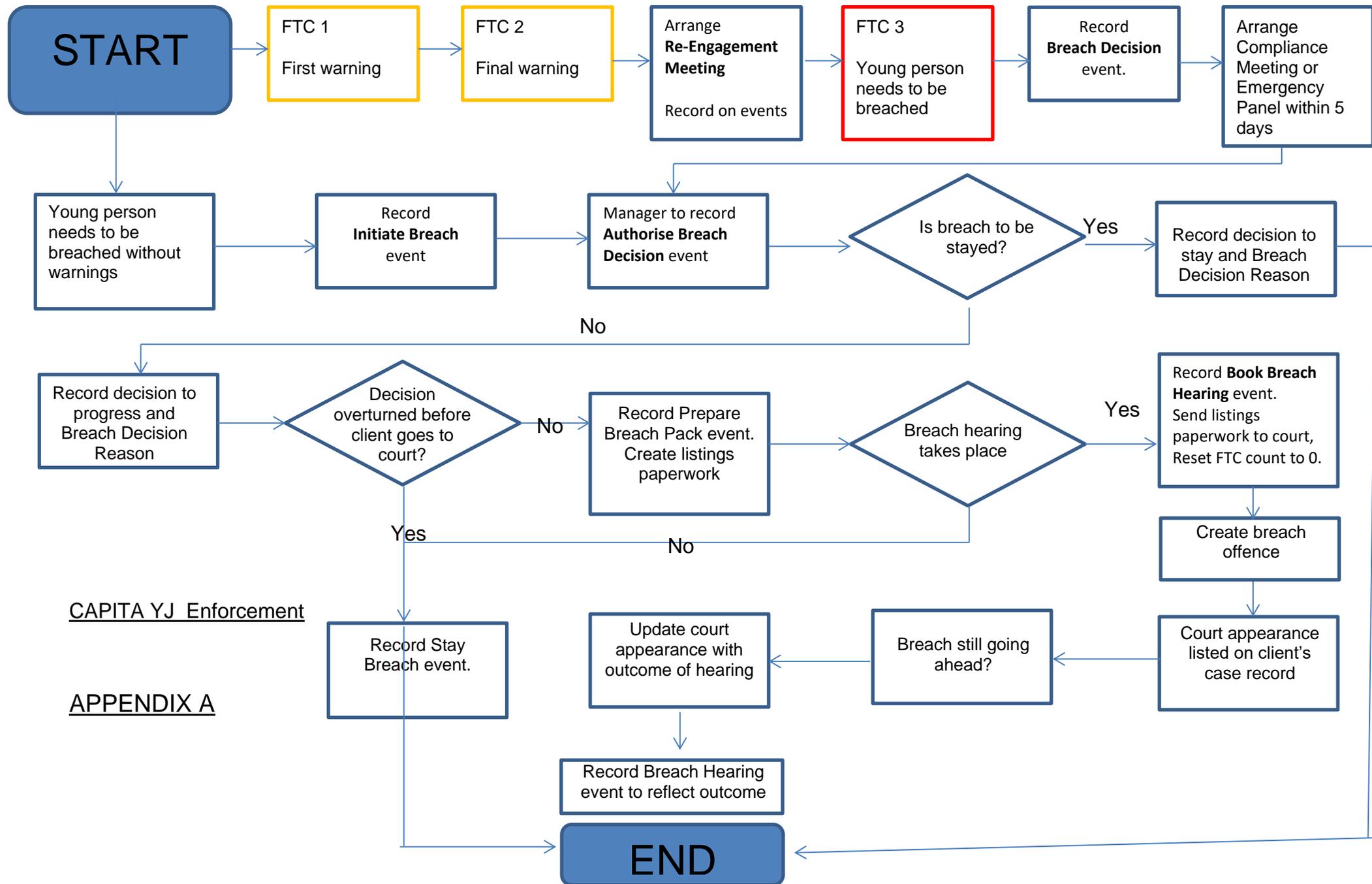
The role of the advocate is also to encourage and support the young person to surrender to the warrant. This may involve facilitating arrangements for them to attend appointment with solicitor.

Any decision to suspend appointments, whilst a young person has an outstanding warrant, must be approved by the service manager.

Case Managers are required to report to the service manager, as well as notify DAS, if it is established that young person is missing in line with missing procedures.

10.5. Team Manager

The YOS Team Manager will be responsible for overseeing the execution of warrants by HMCTS including liaison as well as escalation within the Police/HMCTS senior management when necessary.



Appendix B

Please complete the section below and return this page to EMS via Fax:0333 240 7708 or email:

EMSEnforcement@EMS.co.uk.cjism.net

For any queries please telephone 0161 862 1200

COURT ACTION REQUIRED this is a more serious violation (NB: Court action is required if a previous warning is outstanding or has been issued) - I would be grateful if you would complete the section below, advising what action has been taken. If necessary, can you please keep us informed of the expected court date and the outcome of the breach hearing.

Warning Issued? Yes / No Date
Issued:

Please provide copy of Warning Letter.

If Court Action is taken please complete below

Court Venue:

Hearing date and time:

Do you require a breach pack? Yes / No

A breach pack includes a copy of the court order, event history relating to the violations, visit reports, and any statements taken. It will not include Section 9 statements. These must be requested if a not guilty plea has been entered.

No Action, please state reason

- Withdrawn interests of Justice
- Subject in Custody
- Variation obtained
- Authorised absence
- Other

Note: If authorised absence - does the curfew require a variation?
I.e. to attend a programme on a regular basis Yes / No

Outcome of the Court Hearing: Please update as case progresses

Name: Position: Date: