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Remand Management Guidance

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# Introduction

Police can make the following decisions about young people, aged 10-17 years, when they have been arrested and charged to appear in Court:

* To release them on bail until Court or
* To detain in Police custody until Court (under certain conditions)

The role of the Court is to promote that a child before them:

* surrenders to custody (turns up at court - if not, they can be arrested)
* does not commit an offence while on bail (it is more serious to commit an offence on bail)
* does not interfere with witnesses or otherwise obstruct the course of justice (does not contact witnesses or try to stop the criminal court case happening)
* makes themselves available for the making of inquiries or a report to help the court with sentencing
* attends an appointment with a legal representative
* is safeguarded

Courts can impose conditions to achieve the above and breaching conditions by not attending Court is arrestable. Both are separate/additional offences to the one they already face (Section 6. Bail Act 1976).

The Bail Act 1976 gives a presumption that children will be given bail from court unless:

* They are serving a custodial sentence and were produced at court for a new matter
* They previously breached, or absconded whilst on bail (consider time lapse, current circumstances, and willingness to comply)
* They are alleged to have committed an imprisonable offence and there is reason to believe that the child would fail to surrender, or commit a further offence if given bail
* The offence was committed on bail and could have been heard at either a magistrates’ or Crown Court

If any of these circumstances apply, you must consider a community remand which will:

* reduce the risks
* protect the public
* promote the justice processes

In cases where the assessed risks are too high for safe management in the community, you must not propose a community remand. The Bail and Remand section of AssetPlus helps you make an assessment to respond to objections to bail, and to recommend the most suitable proposal.

The right to bail does not apply to Murder under S.115(1) Coroners and Justice Act 2009. For Magistrates cannot consider bail and the case must be sent to Crown where a Judge can consider Bail. It can only be granted if the court is satisfied that there is no significant risk that the defendant would commit an offence that would be likely to cause physical or mental injury to another person. In coming to that decision, the court must have regard to the nature and seriousness of the offence, the suspects character and antecedents and his/her record in relation to previous grants of bail.

In considering this, prosecutors will consider history, intent, motive, compliance, threats of victim or witness, temptation to abscond; factors which may impact on compliance such as drug dependency, and the views of the victim.

The role of Youth Justice is to:

* provide and to verify information to the Court,
* assess the risk and vulnerability of the young person, and
* inform the Court of any options to safely manage the YP in the community.

# Young People in Court: 4 Tiers

Tier Four

Those young people either at risk of a remand to the secure estate or those who are already so placed.

Tier Three

Those young people, while unlikely to be remanded to the secure estate, who:

* Have committed a serious offence(s) – where the Court are likely to perceive an issue of public safety
* Are assessed as being at risk of re-offending during the remand period.
* Would be vulnerable to a remand to the secure estate should they re-offend or fail to co-operate with a condition of bail

Tier Two

Those young people whose offending would appear to be escalating in frequency but are not on a statutory order.

Tier One

The least vulnerable to further offending or who already have a sufficient level of contact with a Youth Justice worker, but a one-off piece of work may be required to ensure compliance with a Bail Condition/an expectation during the remand period or to support their attendance at Court to prevent any delay.

# Hierarchy of post-court Remand Options

The hierarchy of post court remand options from least to most restrictive/serious:

1. Remanded on Unconditional Bail
2. Remanded on Bail Support Programme – Voluntary so the YP is supported but not on a programme with national standards, and they cannot be breached for non-compliance
3. Remanded on Conditional Bail (includes any condition except tag and programmes)
4. Remanded on Conditional Bail with Tag
5. Remanded on Bail Supervision + Support
6. Remanded on Bail Supervision and Support with Tag
7. Remanded on ISS Bail
8. Remanded on ISS Bail with Tag
9. Remanded to Local Authority Accommodation – RLAA (and any other conditions except tag or programme)
10. Remanded to Local Authority Accommodation with Tag (and any other condition including BSS or ISS)
11. Remanded to Youth Detention Accommodation (YDA)

If a YP fails to attend Court, a warrant for their arrest by Police will be issued. This will be either ‘backed for bail’ (directing them to be released on bail with conditions) or ‘not backed or bail’ (directing them to be held in custody until court).

An RLAA is a refusal of bail and by itself, with or without conditions, is a higher tariff and is more serious than bail with conditions. It is therefore more serious to commit an offence, fail to attend court or to not comply with a condition of RLAA. If an RLAA is warranted, it is therefore usually necessary to enhance this with stringent conditions.

If Bail is refused, the Court has a duty to consider bail at each subsequent hearing in which the defendant appears. Subsequent applications after the first hearing should cite a change – such as different circumstances, a different ‘package’, or the welfare needs of the YP, although the Court has a specific obligation to consider a bail application for a youth, even if they have refused bail twice (R (on the application of B) v Brent Youth Court [2010] EWHC 1893 Admin.) A remand into youth detention accommodation should only be sought where one of the sets of conditions set out in s.98 and s.99 LASPO are met (s.91(4)(a) LASPO).

Which Court? - First Appearance

Having been formally accused of committing an offence, a juvenile will make their first appearance in the Youth Court unless:

* the juvenile is jointly charged with an adult
* the juvenile is charged with aiding and abetting an adult (or vice versa)
* the juvenile is charged with an offence arising from the same circumstances as those in which an adult is accused of committing an offence.

# Guidance

YJ have designated responsibilities at each stage of the court process. These have been split into pre-court, pre-hearing/during hearing and post court.

## **Pre-Court**

We find out that YP are in court in two main ways:

(1) scheduled Youth (and Crown) court hearing lists which are routine and often once or twice a week in nominated courts and

(2) YP appearing from Police custody, having been charged and held to appear at the next available occasional/remand court, which run almost every day of the year including on holidays but never on Sundays

1. Receipt of scheduled Youth and Crown Court Lists

The Court Duty Officer must identify those young people appearing in scheduled Youth and Crown Courts who may be considered for:

* + Voluntary support during a remand period
  + Bail Supervision and Support or Bail Intensive Supervision and Surveillance
  + Remand to Local Authority Accommodation (RLAA)
  + A remand to Youth Detention and Accommodation (YDA)

2. DAILY: YP appearing from Police Custody

Court Duty must contact Police custody ([custody@kent.police.uk](mailto:custody@kent.police.uk) or 01622 652002) before 08:00 every day except Sundays to identify young people detained in Police custody who will be appearing in Court. This must be done even if information has been received from an Appropriate Adult Volunteer, the Criminal Justice Liaison and Diversion Service or from the Out of Hours Service, as there may be other young people in Police custody.

Court Duty should repeat this process each afternoon to obtain any updates on YP in custody and ascertain if there are additional young people in custody.

The Duty Officer should try to ascertain at this stage:

a) the name and D.O.B of the YP

b) the charge (offence)

If possible, Duty should also ascertain if Police have any concerns about bail being granted but Custody may not have time or this information to share at this time.

Systems Information Check

Duty must check Liberi, EHM and Core+ to ascertain if young person is known/open and who to, and email that information to \_UM Duty, and to any allocated practitioner.

Identify young people who are Children in Care or from out of area – the latter requiring Duty to notify the Home Authority, while we usually will need to represent them in Court.

For YP at risk of bail being opposed (YP posing a risk to others) Duty Officers must gather information, subject to time constraints, from professionals who have a working knowledge of the young person to ascertain:

* History of compliance with bail/orders/conditions, attending Court
* Offending history and offending risk factors
* Eligibility and any previous history of ISS
* Current youth justice status (what order, engagement, progress)
* Current legal status (e.g., LAC) and vulnerabilities
* Risks, including health and safety issues
* Any additional needs including speech & language
* Engagement in ETE

Liaison with YJ Duty Manager

The Court Duty worker must share this information with the Duty Manager throughout the duty period, to anticipate bail objections, LASPO considerations (Appendix A) and to agree and coordinate our response.

## **At Court**

Remand Management considerations

The Duty Officer must speak with the Crown Prosecution Service to establish if they have objections to bail, and to check if the CPS agree that a community remand programme will mitigate those objections. The CPS do not need to agree with the YJ proposal but understanding their concerns will assist in mitigating them and informing how robust the community remand management proposal needs to be, and how proactive YJ need to be in Court.

Reasons for CPS Opposing Bail

* Any history of offending, absconding or witness interference whilst on bail in the current or in previous proceedings;
* Any express or implied intention to continue to offend, abscond or interfere with the course of justice and any apparent motive for doing so (for example, to obtain money for the purpose of drug purchases);
* The extent to which the defendant has continued to offend whilst subject to other orders of the Court, such as suspended or deferred sentences and conditional discharge, and any relevant breach proceedings in respect of other sentences as the presence of one or more of the features may demonstrate an unwillingness or inability to comply with other orders of the Court such as bail conditions;
* Any previous breaches of bail conditions in earlier or concurrent proceedings or a history of absconding and failing to surrender to custody;
* Any evidence of violence or threats towards or undue influence over the victim of the crime, or other vulnerable witnesses;
* The degree of temptation to abscond. It should be noted that the risk of failing to surrender owing to the severity of the likely sentence, if convicted was a matter to be assessed in the light of other relevant factors. The likely sentence could not of itself provide grounds for a remand in custody (R (Thompson) v Central Criminal Court [2006] A.C. 9);
* Any factors that could increase the risk that the defendant may fail to surrender to the court such as links to other jurisdictions, for example family, friends and/or assets including properties.   It may be appropriate to consider a defendant’s travel history in this context.  Prosecutors should also consider whether the relevant jurisdiction has an extradition agreement with the UK and, those that will not extradite their own nationals to the UK.  However, it should not be assumed that bail will be inappropriate by virtue of a defendant’s links with a particular overseas jurisdiction.  Prosecutors should consider the seriousness of the offending, the strength of the links to the other jurisdiction(s) compared to the defendant’s links to the UK and assess the risk of failure to surrender on a case-by-case basis.
* Any factors which might affect the defendant’s ability to comply with bail conditions, such as drug or alcohol dependency. Care must be taken, however, with mentally disordered offenders to ensure that the risks of the future events are reduced in a way most compatible with their proper care and treatment (for example by diversion to a recognised medical treatment scheme or by a remand on bail to an appropriate probation or medical facility); and
* The effect that the seriousness of the proceedings and the likely penalty of conviction may have upon the defendant. The more serious the offence and the higher the likely penalty, the stronger will be the need to guard against one of the future risks.

Duty Officer must speak with the young person in court cells to assess their welfare needs, check accommodation circumstances and start to consider a community remand management programme. Duty Officer may also need to confirm address approval with family or LA.

Duty Officer to liaise with the YJ Duty Manager once information from the Crown Prosecutor has been provided and they have identified whether the young person meets the criteria for LASPO 2012 (Appendix A).

Where the assessed risks are too high for safe management in the community, the Duty Officer must inform the Court of this. This will need to be agreed with the Duty Manager in advance.

The Duty Officer should identify which tier/level of remand intervention may be required (as per above). If level 3 or 4 a condition for ISS would be relevant and must be considered and discussed with the Duty Manager, as well as a potential RLAA (which is a refusal of bail and is a community remand). Young people meeting the criteria for both Tiers three and four carry the highest priority for the service and MUST be discussed with the Duty Manager.

Assessment of the Young Person

A Bail AssetPlus must be completed for all young people for whom the CPS raise objections to bail (this may need to be in paper form initially). If there is an existing Asset+, this will inform the Bail AssetPlus. Areas to focus on when considering ability to comply with bail are substance misuse; lifestyle, peers/networks, and personal, family, and social factors – risks to self and others should also be assessed. If the YP is not known and lives in Kent, the Duty Officer should provide all relevant details to an SSO so that they can create a new case on the system

The Community Package Bail Proposal section will form the basis of a proposal to the Court which addresses the CPS objections to bail. This section must be QA’d by the Duty Manager.

A written Community Remand Management proposal (see appendices) following QA by the Duty Manager, must be presented to the Court for all cases where there is a risk of YDA (section 12 of the Criminal Justice and Immigration Act 2008 mandates that the report must be in writing). This will ensure clarity of communication and be helpful for review at future hearings.

The proposal must be discussed with the young person’s advocate/defence solicitor and any conditions proposed must be agreed by the YP and their parent/carer. If a young person will not agree to conditions which are required to address CPS objections, this should be stated clearly in the report.

A proposal can be prepared in advance for a YP in custody who is expected to appear in Court – but it cannot be finalised until the CPS objections are understood.

Reports should contain the following information as a minimum (see template):

* Suitability for conditional bail supervision and support
* The child’s informed agreement to comply and participate with the proposed package
* Details of the bail address, checked by police for suitability
* The level, timing and nature of the support and supervision provided
* Any other bail conditions assessed as necessary to manage risk
* Details of the enforcement measures to be applied in the case of any non-compliance

Remand Proposals

The Duty Officer in discussion with the Duty Manager will consider an appropriate community remand package that:

* Is proportionate to the alleged offence(s) and the young person’s offending history
* Recognises the tier of intervention
* Considers the willingness of the young person to engage
* Acknowledges the possible vulnerability of the young person
* Considers the use of electronic monitoring/location monitoring to support a curfew (see guidance)
* Addresses accommodation issues – including a possible RLAA
* Is aligned to any relevant partner agency plans and interventions, such as LAC care plans

The Bail Act 1976 grants young people two chances to apply for Community Remand at the magistrate’s court, or further applications can be made if there is a change in circumstances. If this fails, Community Remand can be applied for at the crown court ('judge in chambers').

However, because the court must have regard also to the welfare of the young person (s.44 of the Children and Young Persons Act 1933), this imposes a specific obligation on the court to consider a bail application, even if the court has refused bail twice and there is no change of circumstances nor any considerations which were not before the court when the young person was last remanded. This follows a challenge and precedent in 2010 [R (on the application of B) v Brent Youth Court]. Practitioners should cite this if necessary to argue for an additional opportunity to consider bail.

It is very important that all Community Remand programmes are considered carefully and written accurately, because although there are more than two chances to apply for bail, if two chances have already been exhausted, it is much harder to convince the bench to grant bail or a community remand, so the first two applications are crucial.

Conditions can be applied to bail and to RLAAs, but not to YDAs

Bail conditions should only be imposed to address any of the risks that would be inherent in granting unconditional bail and also for a YP’s “own welfare or in own interests" (s.3(6) (ca) Bail Act 1976).

Conditions may include (but are not restricted to):

* “To live and sleep each night at xxx” (a specific address)
* “To remain indoors at the given address, between the hours of xxx and xxx”

additionally:

* “To be monitored by electronic tag” (aged 12 or over only)

OR

* “To present yourself to Police making doorstep checks”. The purpose of a doorstep check is to enforce a residence condition (or a curfew – although the latter is more commonly and effectively enforced by electronic tag). Electronic tagging is expected to be used as an alternative to bail being refused.
* Electronic tagging with GPS location monitoring has the additional facility to impose an element of location monitoring such as exclusion from a particular locality or around a particular address. The condition may be:

“Not to enter xxx (a specific address or building e.g., shop or shopping centre, or area such as a borough) between specific times/days etc. to be monitored by GPS tag”. A narrative description of the exclusion area MUST be provided, and a map supplied to the court and YP where the exclusion is a zone/town/borough etc.)

* “To report to xxx Police station (on specific days, at or between specific times)” The purpose of this is to prevent a defendant from absconding. Care should be taken to ensure that the interval between reporting times is not so long as to be insufficient to prevent absconding.
* “To report to Youth Justice xxx/as required” (anything from once a week to several times daily, depending on the assessment, although this should not be confused with BSS or ISS which are programmes with national minimum standards)
* “Not to contact directly or indirectly xxx” (named individuals, such as victims, witnesses, or co-defendants, and in-direct includes text, or sending messages via other people)
* “To attend appointments with Youth Justice to enable a Pre-Sentence Report”
* “Not to be in possession of a mobile phone/not to access the internet/social media”
* “Not to be a passenger in the front seat of a vehicle”
* “Not to be in a named public place unless accompanied by an adult approved by YJ/CSW/LA”
* “Surrender passport or other travel documents to Police”
* \*Security (a relative or friend lodges money with the Court or Police – this could be kept if the child on bail did not turn up to the Court)
* \*Surety (a relative or friend in attendance at Court shows the court or police they have an amount of money). The money may be paid to the court if the child does not turn up to the court. The surety can be continuous throughout proceedings and does not need to attend each hearing.

*\*Rarely used*

In Murder cases: Under s.115 of the Coroners and Justice Act 2009, a Crown Court must impose conditions in accordance with s.3(6A) of the Bail Act 1976 providing for the medical examination of the defendant. The Court need not impose the conditions if it is content that satisfactory reports have already been obtained.

Electronic Tagging

An electronic monitoring requirement may only be imposed on a youth aged 12 to 17 (it is not available for 10-11-year old’s) if the following conditions are satisfied:

* the child or young person has been charged with or convicted of a violent or sexual offence, or an offence punishable in the case of an adult with imprisonment for a term of 14 years or more; or
* is charged with or has been convicted of one or more imprisonable offences which, together with any other imprisonable offences of which he has been convicted in any proceedings, amount, or would amount if convicted of the offences with which he is charged, to a recent history of repeatedly committing imprisonable offences while remanded on bail or to local authority accommodation; and
* the youth offender team has informed the court that the electronic monitoring requirement is suitable for that child or young person (s.3AA of the Bail Act 1976).

Location Monitoring

Unlike the curfew tag, the LM tag monitors the child’s location 24 hours a day using GPS technology. It can be used to monitor:

* Compliance with exclusion zones. The boundary can be around a place, building or area (single or multiple). Zones can also be tailored to be active for specific days and times
* To monitor a child’s attendance at a particular activity such as an education programme
* A child’s whereabouts, known as trail monitoring. This data can be requested retrospectively from EMS for these cases (please see “Trail Monitoring- an overview for YOT staff” for more information). This is only available to post-custody cohorts.
* A curfew can be monitored alongside a location monitoring requirement. Cases that only involve curfew monitoring will continue to be monitored through the existing Radio Frequency (RF) tags, and a child will never be required to wear two tags at any one time.
* A combination of the above

For Court Imposed Bail, or Remand to Local Authority Accommodation necessity and proportionality must be considered. Suitability for Location Monitoring should be guided, as with all forms of monitoring, by the understanding that the risk of non-compliance is not removed. Caution should be exercised when imposing a location monitoring order for crimes of violence or domestic abuse or for cases where the impact of a breach would create a risk of serious harm. (Further info see link in appendices)

Note: Trail monitoring is a functionality of location monitoring that enables YJ to request retrospective information about a YP’s whereabouts at any time during an Order, however it is not available for court bail.

Bail Supervision and Support programmes

Both BSS and ISS programmes should illustrate clear communication of expectations with the parents/carers and YP, with the programme agreement signed by the YP, and if under 16, b their parent/carer.

Where the young person meets the ISS criteria, discussion with the Duty Manager must take place.

Bail Intensive Supervision and Surveillance

Court Duty Officer must ensure that the Court are aware of alternatives to a custodial remand. Intensive Supervision and Surveillance must be offered to the Court as an alternative to if it is established that risk can be managed in the community. ISS must provide a minimum of 25 hours structured time over 7 days each week, with 2 contacts per day (the curfew can count as one), including the core elements of:

* Education, training, or employment - 15 of the 25 high intensity hours can be timetabled in this category
* Family support: sessions with the parents or carers to ensure that they understand the requirements and are actively encouraging compliance
* Interpersonal skills - work to support the factors which can increase resilience and desistance
* An electronically monitored curfew

In addition, programmes should include access to support with universal and specialist services for individual issues such as homelessness, drug misuse or mental health problems. Existing supports can count towards these hours. The first contact with the YP subject to Bail ISS must be on the same day as the court appearance. A finalised, signed programme plan should be in place within 2 working days of the package being imposed.

Remand to Local Authority Accommodation

A remand to local authority accommodation is a remand in custody and custody time limits will apply (s.23(11)(b) Prosecution of Offences Act 1985).

YP’s who are RLAA acquire Looked After status and MUST be immediately allocated to a Social Worker once an RLAA is imposed to undertake Looked After Child regulatory tasks. They must also be allocated to a YJ practitioner, and if the YJ practitioner is a SW, they can undertake both children’s services and youth justice statutory tasks.

If the court are not satisfied that bail is suitable, they must consider whether they will remand into Local Authority Accommodation (RLAA). The Court Duty Officer must highlight to the court that the Local Authority does not have access to secure accommodation and that any RLAA imposed would be community based and not secure.

The Court cannot tie the hands of the LA by dictating the address that the young person must be accommodated to but CAN name people who the child must not be placed with (e.g., can name the parents especially if they are the victim of the alleged offence). Conditions, such as residence, for RLAA’s should therefore state:

“Reside as directed by the (Kent) Local Authority” and should NOT name the specific address, to enable the LA to move the YP as and when needed.

The exception to this is a 10 or 11-year-old, who is either charged with or has been convicted of a serious offence or, in the opinion of the court, is a persistent offender on bail. The court may order a local authority to make an oral or written report specifying where the child is likely to be placed or maintained if he is remanded into local authority accommodation (s.23B Children and Young Persons Act 1969).

Where Crown Prosecution Service (CPS) is opposing bail the Duty Officer must notify the appropriate Social Work service, if the YP is open to one, and gather information. They should ascertain what support is available from the SW service.

If the young person is remanded into the care of the Local Authority, it is the responsibility of the Local Authority to identify a suitable placement. This can include the young person returning home where there are no Child Protection concerns. The LA must organise for the young person’s transportation from court to the accommodation and ensure that the young person is accompanied by an appropriate adult (which can include a non-Social Work qualified Youth Justice practitioner, or a parent).

Secure Accommodation Orders

If a young person is remanded to local authority accommodation, the authority can separately apply to the Court for a Secure Accommodation Order. The application is made under s.25 Children Act 1989, where the remand has been made by the Youth Court or magistrates' court, the authority must apply to that Court and not to the Family Proceedings Court.

The maximum period for which a Court can make a Secure Accommodation Order on a young person who has been remanded to local authority accommodation is the period of the remand. If the authority intends to make this application, then it may well be advisable for Prosecutors to delay any application for remand to local authority accommodation until the local authority application has been heard. If the application is successful a remand on bail with a condition of residence could be sought where directed by the local authority.

If the young person is not already in care, then the remand must be dealt with first and a remand to local authority accommodation granted before the local authority has power to seek a Secure Accommodation Order. Time that is spent remanded or committed in custody (including Police detention, or in secure accommodation), is deducted from the final sentence. Time spent remanded or committed to local authority accommodation does not count against the final sentence.

Youth Detention Accommodation (YDA) – please see full details of sec 98/99 p.20

YDA is available only to YP aged 12+ who:

* is charged with or has been convicted of a violent or sexual offence, OR an offence punishable in the case of an adult with imprisonment for a term of fourteen years or more, or
* taken together, the offences for which they have been convicted and with which they have been charged amount to a recent history of repeatedly committing imprisonable offences while remanded on bail or to local authority accommodation, or
* Have a recent history of absconding whilst subject to a custodial remand OR
* Have been charged with an offence committed whilst on remand.
* There is a real prospect of them receiving a custodial sentence.
* It is necessary to protect the public OR it is necessary to prevent the commission of further imprisonable offences.

If a YP is remanded into youth detention accommodation, the YJ Duty Officer must phone YJB placements on 0845 3636363 to request a placement. They, or the Team Manager with SSO support, must ensure that the correct documents are completed and sent securely to the Youth Custody Service Placement Team using Connectivity.

On the day of court and following a secure remand or custodial sentence, the Duty Officer must see the YP in the cells to check on their welfare. They must complete the Post Court section of the Bail Asset+, ensuring they capture and record the YP’s reaction to the court’s decision and the information required for the Person Escort Record. The Asset+ Bail and Remand module should also be completed, and these docs sent via connectivity to the YJB placement team as soon as possible and before the end of that working day. It is critical that where a YP is known to another area that the Post Court section is completed in conjunction with them.

## **Post Court – Bail Granted**

Information Recording at and Following Court

A copy of the Bail Sheet with all conditions specified must be recorded, input by SSO and shared within 24 hours with the allocated YJ Practitioner. Contact details of the legal representative to be provided by the Duty Officer and recorded on the system. Written remand report to be uploaded to the system.

Monitoring information to be recorded on Core+ as per list included in Appendix C.

The Youth Justice Team Manager must ensure all remand cases, except those with unconditional bail, are allocated within 24 hours. If the parent/carer was not present in court they should be contacted within 24 hours of Court to ensure they understand conditions. If the YP is currently on a statutory order the appointments associated with this can be used as contacts for bail supervision. The first contact with the YP subject to Bail ISS must be on the same day as the court appearance.

A finalised, signed programme plan should be in place within 2 working days of BSS, ISS or an RLAA being imposed.

Delivery of interventions on community remand programmes must be consistent with YJB Standards and the conditions imposed by the Court.

Turning 18 During a Remand Period

If a YP turns 18 whilst on bail for an offence committed when they were under 18, they should be managed by YJ until any hearings after their 18th birthday, at which point the Court may treat them as an adult. Young people are normally sentenced according to their age on the day they are found or pleaded guilty.

Restorative Justice and Offence Focused Intervention

Restorative justice and offence-focused interventions, related to the alleged offences they are on bail for, for YP who are not convicted (until found or pleading guilty) should not be delivered. This avoids a conflict of interest and young people talking with YJ about offences which are unproven and still before the court. General discussions about offending and their risks and needs can be had.

Varying Bail Conditions

Bail conditions can be in place for substantial periods where there is a delay in the case progressing through court. Cases should be discussed during Unit Meetings to provide regular scrutiny and updates to the Youth Justice Team Manager about the young person and their compliance. The plan should be reviewed monthly.

An application can be made to the court to vary, reduce, or remove conditions through the YP’s defence (solicitor or barrister). The YP must agree to these, so YJ should be proactive and contact the defence solicitor, the YP and their family to discuss these in advance of making an application via the defence. This is only when pursuing a variation that the Court has not instigated, such as when the YP has complied for a long time and the conditions could be relaxed; or when there is a change of circumstances that impact on the bail conditions. This is not to be confused with circumstances in which the Court will instigate consideration of any new (varied, added, or enhanced) conditions, such as when there has been a breach or a new offence.

An application can be made to reduce ISS to a minimum of 5 hours a week, where there has been consistent compliance. Any such decision should be made in conjunction with the Team manager and clearly recorded on the system with the rationale. Whilst there are no set timescales for when hours can be reduced, there is an expectation that there will have been consistent compliance for a significant period and that the worker will be led by the views of the court before making any decisions to apply for a reduction. A sound rationale is expected for the decision and a robust argument to evidence that the purposes of the remand management can still be met.

Compliance and Enforcement

If a YP fails to comply with BSS, ISS or RLAA conditions, the YJ practitioner should follow up within 24 hours, to determine whether there is a reasonable explanation.

Where there is no reasonable explanation, a written warning must be issued. Written warnings may also be issued when a YP attends an appointment but behaves in an unacceptable manner. The Engagement Policy should be followed as for post-court cases. The Team Manager will meet with the YP and YJ practitioner to determine what can be implemented to support compliance. Once two written warnings for failures to attend have been issued, further instances of non-compliance will lead to a notification to the court, YJ can only instigate a breach based on the conditions of complying with appointments as we are unable to provide sufficient evidence for other conditions. YJ may also proceed straight to breach if there is one instance of serious behaviour that warrants this.

When deciding on a breach there should be a discussion with a Team Manager to include an appraisal of what is being achieved, as well as the failure to comply with specific requirements.

Breach proceedings are instigated by making a Witness Statement to police by the allocated YJ Practitioner. The YP should be advised that breach has been instigated and that they should present to their nearest police station or to the court as soon as possible. The YJ Practitioner will be responsible for preparing a new remand proposal report in preparation for the Court hearing at which the breach will be heard.

## **Post Court – Bail Refused RLAA**

Information Recording at and Following Court

Bail refused notification to be completed, saved within the relevant Court file, and uploaded to Core+ to be updated at subsequent hearings. Copy of Bail Sheet or Remand Warrant with all conditions specified to be recorded on the system by the SSO and shared with the allocated YJ Practitioner within 24 hours. Contact details of the legal representative to be provided by the Duty Officer and recorded on the system. Written remand report to be uploaded to the system.

Monitoring information to be recorded on Core+. The Youth Justice Team Manager must ensure all cases, except those with unconditional bail, are allocated within 24 hours, if the parent/carer was not present in court they should be contacted within 24 hours of Court so that they are clear about conditions.

RLAA expectations of YJ Team

The Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) 2012 makes Remand to Local Authority Accommodation (RLAA) available for all children under 18. Local authorities have a legal duty to provide accommodation for all children who are RLAA’d. The most appropriate placement may be with a family/friend, foster placement, or a children’s home.

A court that remands a child to local authority accommodation must designate which local authority will receive the child. If the child is looked after, the designated local authority will be the ‘home’, regardless of where the child is placed, or where the offence took place. The designated authority must provide or arrange for accommodation for the child for the duration of the remand, and during this time it is lawful for any person acting on behalf of the designated authority to detain the child.

The LA will allocate a Social Worker (if not already open) who will be responsible for implementing CIC procedures, arranging planning meetings and reviews. The YJ Practitioner should share assessments and attend and contribute to meetings as required. The Care Plan must be prepared within 5 working days of the child being RLAA’d. Care planning should consider the young person’s needs both during the period of remand and following the court hearing. The Care Plan will also need to consider arrangements for the young person’s support should they be convicted and receive a custodial sentence.

If the package includes compliance with BSS or ISS, discussion with the Youth Justice Team Manager should plan the ISS or Bail Supervision and Support including RLAA placement meetings and reviews; ensuring support for the placement provider is a key element of the agreed Plan.

Compliance and Enforcement

If a YP fails to comply with RLAA conditions, the YJ practitioner should follow up within 24 hours, to determine whether there is a reasonable explanation. Where there is no reasonable explanation, a written warning must be issued. Written warnings may also be issued when a YP attends an appointment but behaves in an unacceptable manner. The Engagement Policy should be followed in the same manner as it is with post- court cases, and the Team Manager will meet with the YP and YJ practitioner to determine what can be implemented to support compliance. Once two written warnings have been issued, further instances of non-compliance will lead to breach. YJ may also proceed straight to breach if there is one instance of serious behaviour that warrants this.

In RLAA cases, when deciding on a breach there should be a discussion with the Social Worker and a Team Manager which should include an appraisal of what is being achieved, as well as the failure to comply with specific requirements.

Breach proceedings are instigated by making a Witness Statement to police, this will be the role of the YJ Practitioner monitoring the compliance. The YP should be advised that breach has been instigated and that they should present to their nearest police station or to the court as soon as possible. The YJ Practitioner will be responsible for preparing a new remand proposal report in preparation for the Court hearing at which the breach will be heard.

Throughout the remand management period the YJ Practitioner must ensure there is regular update of case and supervision notes and file records. Cases should be discussed during Unit Meeting to provide weekly updates to the Youth Justice Team Manager about the young person and their compliance with the package.

## **Post Court – Bail Refused YDA**

Information Recording at and Following Court

Bail refused notification to be completed, saved within the relevant Court file, and uploaded to Core+ to be updated at subsequent hearings. Copy of Warrant to be uploaded to the system within 24 hours. Contact details of the legal representative to be provided by the Duty Officer and recorded on the system. Monitoring information to be recorded on Core+: Remanded to Youth Detention Accommodation

YDA Expectations of YJ Team

The YJ Team Manager must allocate within 1 working day, to include secondary allocation to a Transition Practitioner. YJ Practitioner must inform parents, carers, education establishments, accommodation providers and any other relevant organisations or individuals of the remand, as soon as possible. YJ & Transition Practitioners to liaise with the Social Worker and secure establishment to put plans in place which meet the child’s needs.

YJ Practitioner and YJ Team Manager should discuss whether an application will be made for a community remand, and if so, list this as soon as possible and create a credible community remand package. Any decision not to offer this must be recorded by the Youth Justice Team Manager with a rationale about the level of risk the young person presents to others. The YP should be discussed in group supervision to consider risks, needs and case formulation.

Transition Practitioner to liaise with home education authority to ensure that the statutory duties continue to be met for any school age YP, with schoolwork being sent into the secure estate. Liaison with education or training providers, employers, or careers advice agency for post school age will depend on need.

An initial planning meeting must take place within 5 working days of remand. A Detention Placement Plan (DPP) must be completed (on Liberi by the allocated SW) within 10 working days and should describe how the YDA will meet the YP’s needs and record the roles and responsibilities of the other partner organisations. The DPP should also consider the circumstances that contributed to the YP’s alleged involvement in any offending and the support s/he should be offered when they return to the community to prevent (re)offending.

The DPP should be reviewed on at least a monthly basis, while the YP remains in the secure establishment, to review progress against targets and progress within the institution. Review meetings should consider whether an application for bail is appropriate. YJ Practitioners should make every effort to combine LAC reviews with remand reviews, so that relevant staff can be present and take a holistic view of the YP’s needs.

Remand hearings may be conducted by video link. The decision about these reviews being virtual or face to face should reflect what is in the best interests of the young person and their relationship with various professionals.

YJ and/or Transition Practitioner should visit monthly to see the young person individually, outside of review meetings to discuss welfare needs. This meeting may take place on the same day as the remand review but must be separate.

If the remand lasts for 13 weeks or longer, the child becomes eligible for leaving care services. This means that they will get advice and support for needs including accommodation and financial assistance (including for higher education) by the responsible local authority.

# Links to Resources and Further Guidance

|  |
| --- |
| Keywords and Acronyms |
| Court Duty Paperwork |
| Kent YJ Report considering Community Remand Programme |
| YJB Case management guidance - [How to manage bail and remands](https://www.gov.uk/government/publications/how-to-manage-bail-and-remand/how-to-manage-bail-and-remands-section-3-case-management-guidance#introduction) |
| Bail refusal notification form |
| National Joint protocol between YOTs and EMS - This joint protocol lays out the responsibilities of youth justice teams (YJTs) and electronic monitoring services (EMS) in relation to the electronic monitoring of young people - [Joint protocol between YOTs & EMS](https://www.gov.uk/government/publications/joint-protocol-between-yots-and-electronic-monitoring-services) |
| Location Monitoring: Information for YOT Staff |

|  |
| --- |
| EMS Zone Guide |
| Your Tagging conditions leaflet & Tagging Handbook |
| Standards for Children in the Youth Justice System 2019 |
| YJ weekday duty worker, remand and OCS hearing guidance |
| Joint working protocol around the Youth Offending Partnership responsibilities towards young people in the criminal justice system known to Kent Children’s Social Work Services. |
| Further reading:    <http://yjlc.uk/bail-conditions/> Bail conditions  <https://marymonson.co.uk/applying-for-bail/>  Applying for bail, what are bail conditions and what is the best approach? |

# Appendices

## **Appendix A - LASPO 2012**

Remand to Youth Detention Accommodation Legal Test Flowchart



The court must be satisfied that sec 98 or sect 99 have been met. The above covers information from each section but for clarity:

Sec 98

First set of conditions for a remand to youth detention accommodation is met in relation to a child if each of the following is met:

(a) the age condition, (step 1)

(b) the offence condition (step 3)

(c) the necessity condition (step 4) and

(d) the first or second legal representation condition (step 2)

Sec 99

Second set of conditions for a remand to youth detention accommodation

For the purposes of section 91[(4)(a)](https://eur01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.legislation.gov.uk%2Fukpga%2F2012%2F10%2Fpart%2F3%2Fchapter%2F3%2Fcrossheading%2Fremands-to-youth-detention-accommodation%2Fenacted&data=04%7C01%7CPaula.Desai%40kent.gov.uk%7Cf9519c41f45a41df2a9a08d8ff41835b%7C3253a20dc7354bfea8b73e6ab37f5f90%7C0%7C0%7C637540004126135021%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=FA7wwGccUQw50vAX0TaAQO7WmbeIOPuaiBVwDrswKyM%3D&reserved=0), the second set of conditions for a remand to youth detention accommodation is met in relation to a child if each of the following is met in relation to the child—

(a) the age condition

(c) the offence condition

(e) the necessity condition and

(f) the first or second legal representation condition

The additional conditions for Sec 99 are:

(b) the sentencing condition, - it appears to the court that there is a real prospect that the child will be sentenced to a custodial sentence for the offence mentioned in section 91[(1)](https://eur01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.legislation.gov.uk%2Fukpga%2F2012%2F10%2Fpart%2F3%2Fchapter%2F3%2Fcrossheading%2Fremands-to-youth-detention-accommodation%2Fenacted&data=04%7C01%7CPaula.Desai%40kent.gov.uk%7Cf9519c41f45a41df2a9a08d8ff41835b%7C3253a20dc7354bfea8b73e6ab37f5f90%7C0%7C0%7C637540004126145011%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=te4a2qEO0P2VuFpmT1Wc%2FwN37TjlI3xJuBn4yjNFU6I%3D&reserved=0) or one or more of those offences.

(d ) the first or second history condition or both (see subsections [(5)](https://eur01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.legislation.gov.uk%2Fukpga%2F2012%2F10%2Fpart%2F3%2Fchapter%2F3%2Fcrossheading%2Fremands-to-youth-detention-accommodation%2Fenacted%23section-99-5&data=04%7C01%7CPaula.Desai%40kent.gov.uk%7Cf9519c41f45a41df2a9a08d8ff41835b%7C3253a20dc7354bfea8b73e6ab37f5f90%7C0%7C0%7C637540004126155005%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=KbuVPuaBCJ3KeP6z9Xy42cbUv7fo3H56RcoS7Uu9wuA%3D&reserved=0) and [(6)](https://eur01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.legislation.gov.uk%2Fukpga%2F2012%2F10%2Fpart%2F3%2Fchapter%2F3%2Fcrossheading%2Fremands-to-youth-detention-accommodation%2Fenacted%23section-99-6&data=04%7C01%7CPaula.Desai%40kent.gov.uk%7Cf9519c41f45a41df2a9a08d8ff41835b%7C3253a20dc7354bfea8b73e6ab37f5f90%7C0%7C0%7C637540004126164999%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=mLt8xue%2FrFgQV6TQ1I9Zap47FpCm8%2FvFZ1JW58%2BgDe4%3D&reserved=0)), - these are:

(a) the child has a recent history of absconding while subject to a custodial remand, and

(b) the offence mentioned in section 91[(1)](https://eur01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.legislation.gov.uk%2Fukpga%2F2012%2F10%2Fpart%2F3%2Fchapter%2F3%2Fcrossheading%2Fremands-to-youth-detention-accommodation%2Fenacted&data=04%7C01%7CPaula.Desai%40kent.gov.uk%7Cf9519c41f45a41df2a9a08d8ff41835b%7C3253a20dc7354bfea8b73e6ab37f5f90%7C0%7C0%7C637540004126174998%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=yaMPxraLUq1%2FAi8vDpTU1wQki4qxdpX8z73Cg%2FHA6xo%3D&reserved=0), or one or more of those offences, is alleged to be or has been found to have been committed while the child was remanded to local authority accommodation or youth detention accommodation.

(6) The second history condition is that the offence or offences mentioned in section 91[(1)](https://eur01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.legislation.gov.uk%2Fukpga%2F2012%2F10%2Fpart%2F3%2Fchapter%2F3%2Fcrossheading%2Fremands-to-youth-detention-accommodation%2Fenacted&data=04%7C01%7CPaula.Desai%40kent.gov.uk%7Cf9519c41f45a41df2a9a08d8ff41835b%7C3253a20dc7354bfea8b73e6ab37f5f90%7C0%7C0%7C637540004126174998%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=yaMPxraLUq1%2FAi8vDpTU1wQki4qxdpX8z73Cg%2FHA6xo%3D&reserved=0), together with any other imprisonable offences of which the child has been convicted in any proceedings, amount or would, if the child were convicted of that offence or those offences, amount to a recent history of committing imprisonable offences while on bail or subject to a custodial remand.

## **Appendix B – Trials**

Place of trial

A juvenile will ordinarily be tried in the Youth Court. A juvenile may be tried in an adult Magistrates' Court only if he is charged alongside an adult. A juvenile will be tried in the Crown Court where:

|  |  |  |
| --- | --- | --- |
| **Offence** | **Discretion** | **Court** |
| Homicide offences | **must** | Crown Court |
| Firearms offences where the mandatory minimum term applies | **must** | Crown Court |
| Grave crimes:   * offences carrying terms exceeding 14 years for adults * sexual assault * child sex offences | **may**   * The court should consider representations only and not evidence. * The defendant has no right to elect Crown Court trial. * There must be a real possibility that the claimant could be sentenced to a custodial term in excess of two years. * The decision may be challenged by judicial review. | Crown Court |
| [Specified offence](http://www.statutelaw.gov.uk/content.aspx?LegType=All+Legislation&title=criminal+justice+act+2003&Year=2003&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&sortAlpha=0&TYPE=QS&PageNumber=1&NavFrom=0&parentActiveTextDocId=902928&ActiveTextDocId=903769&filesize=6801) punishable  in the case of an adult by life or more than 10 years imprisonment | **must** if the court considers there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further specified offences | Crown Court |
| Tried alongside adult | Adult is to be tried in the Crown Court  if it is necessary in the interests of justice that they both be tried in the Crown Court | Crown Court |
| Adult is to be tried in the Magistrates' Court | Adult Magistrates' Court |

Trial in the Youth Court

A Youth Court is a magistrates' court, but the Youth Court has jurisdiction to try juveniles where a Magistrates Court does not have a similar power to try adults. The Magistrates and District Judges who sit in the Youth Court will receive specialist training on dealing with young people. A youth court is presided over by either a district judge or a bench of two or three lay magistrates, which previously must (unless there are unforeseen circumstances) have included both a man and a woman, though this requirement has since been repealed.

A youth court is not open to the public. The victim(s) of the crime, however, has/have the opportunity to attend the hearings of the court if they want to, but they must make a request to the court if they wish to do so. The needs and wishes of victims will always be considered by the court and, through the youth offending team (YOT), they often have the opportunity to have an input into the sentencing process. The only other persons who may be present are:

* members and officers of the court.
* parties to the case before the court, their solicitors and counsel, and witnesses and other persons directly concerned in that case (e.g. probation officers and social workers).
* parents or guardians.
* bonâ fide representatives of newspapers or news agencies.
* such other persons as the court may specially authorise to be present.

The following reporting restrictions apply automatically:

* no report shall be published which reveals the name, address or school of any child or young person concerned in the proceedings or includes any particulars likely to lead to the identification of any child or young person concerned in the proceedings; and
* no picture shall be published in any newspaper as being or including a picture of any child or young person so concerned in the proceedings as aforesaid.

The restrictions may be lifted by the court:

* for the purpose of avoiding injustice to the child or young person or
* as respects a child or young person, who is charged with or has been convicted or a violent offence, a sexual offence, or an offence punishable in the case of a person aged 21 or over with imprisonment for fourteen years or more and is unlawfully at large, it is necessary to dispense with those requirements for the purpose of apprehending him and bringing him before a court or returning him to the place in which he was in custody or
* in respect of a child who has been convicted of an offence, in the public interest.

Where a child is under 16, the court **must** (unless it would be unreasonable) require a parent or guardian to attend court and where the child is aged 16 to 18, the court **may** do so.

Trial in the Crown Court

Generally, the same procedures apply in the [Crown Court](https://en.wikipedia.org/wiki/Crown_Court) for juveniles as for adults.

There is no automatic restriction on reporting proceedings, unlike in the Youth Court, but the court may direct that:

* no newspaper report of the proceedings shall reveal the name, address or school, or include any particulars calculated to lead to the identification, of any child or young person concerned in the proceedings, either as being the person by or against or in respect of whom the proceedings are taken, or as being a witness therein; and/or
* no picture shall be published in any newspaper as being or including a picture of any child or young person so concerned in the proceedings as aforesaid.

Where a child is under 14, the court **must** (unless it would be unreasonable) require a parent or guardian to attend court and where the child is aged 14 to 18, the court **may** do so.

[Paragraph II.30 of the Consolidated Criminal Practice Direction](http://www.justice.gov.uk/criminal/procrules_fin/contents/practice_direction/pd_consolidated.htm) makes provision for the adapting the procedures in the Crown Court where a juvenile is tried, to assist in their taking part in the trial.

A defendant under the age of 18 may give evidence by live link if:

* it would be in the interests of justice to do so
* the defendant's ability to participate effectively as a witness is compromised by his level of intelligence or social functioning and that his ability to participate effectively would be improved by giving evidence via a live link.

## **Appendix C – Sentencing Powers**

Court Powers

The courts have the powers to pass the following sentences:

|  |  |  |  |
| --- | --- | --- | --- |
| **Court Outcome** | **Youth Court** | **Adult Magistrates Court** | **Crown Court** |
| **Sentence of detention** |  |  | If the court is of the opinion that none of the other methods in which the case may legally be dealt with is suitable |
| **Detention and training orders** | Yes |  | Yes |
| **Fine** | Up to £1000, or up to £250 if under 14 | | Unlimited |
| **Youth community orders (if aged 17 or over)** | Yes |  | Yes |
| **Reparation orders** | Yes |  | Yes |
| **Referral order** | Yes |  | Exercising the power to act as a district judge |
| **Absolute and conditional discharge** | Yes | Yes | Yes |
| **Binding over the juvenile’s parents** |  | Yes |  |
| **Ancillary orders** | Yes | Yes | Yes |