

ANNEX TO MOJ CIRCULAR 2022/03 LEGAL AID, SENTENCING AND PUNISHMENT OF OFFENDERS ACT 2012: AMENDMENTS TO THE YOUTH REMAND FRAMEWORK BY THE POLICE, CRIME, SENTENCING AND COURTS ACT 2022

Additional information on Remand to Local Authority Accommodation (RLAA)

Paragraphs 16-23 of Circular 2022/03 set out the main provisions of RLAA and this Annex collates information on additional considerations.

- Local Authorities (LAs) are responsible for identifying and covering the cost of a RLAA placement,¹ and for being satisfied that it is suitable for the child in line with guidance.²
- Any person acting on behalf of that LA can lawfully detain the child.³ The youth justice service, i.e., Youth Offending Team (YOT), has a statutory duty to support children on RLAA.⁴
- The child becomes a Looked After Child (LAC) (as is also the case with Remand to Youth Detention Accommodation RYDA), and there is statutory guidance for LAs about care planning and placement of such children.⁵ This includes a requirement (in addition to the care plan), to have a placement plan, health plan and personal education plan and to ensure the placement is as least disruptive to their education/training as possible.⁶
- Para 17 sets out how to designate an LA, and additionally, the Youth Justice Board's Case Management Guidance sets out considerations in cases where a child is in court out of their home area. For example, that the home area is responsible for arranging and paying for secure escorts to transport the child to the placement.⁷
- The final decision about which LA has responsibility must be stated in open court.⁸ The paperwork for RLAA should be completed in full by the courts.

Conditions that can be imposed on a child on RLAA

- The court must consult with the LA (via the YOT) before imposing any conditions onto the RLAA.⁹ Paras 18-20 of the Circular set out applications for conditions, types of conditions, and the need to state reasons in open court.
- The conditions for imposing an electronic monitoring requirement are set out in section 94 of the Legal Aid, Sentencing & Punishment of Offenders Act 2012 (LASPO). Legislation does not permit GPS 'tagging' (i.e. location or trail monitoring) on RLAA; electronic monitoring can only be used to monitor compliance with other conditions and not for standalone monitoring.¹⁰
- The court may impose requirements on the LA for securing the child's compliance with any conditions.¹¹

¹ Section 38(4)(d) Crime and Disorder Act 1998 - the placement in local authority accommodation of children and young persons remanded to such accommodation under section 91(3) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012; & section 38(3) refers to LAs covering the cost.

² Para 8.18 of the Children Act 1989 guidance and regulations - Volume 2: care planning, placement and case review. [DfE 2021 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

³ Section 92(5) LASPO 2012

⁴ Section 38(4)(d) Crime and Disorder Act 1998

⁵ The Children Act 1989 guidance and regulations – Volume 2: DfE 2021

⁶ Section 47A of Care Planning, Placement and Case Review Regulations 2010. s22C(7) & (8)(b)] Children Act 1989

⁷ YJB [Case Management Guidance: Case responsibility](#)

⁸ Judicial College, Youth Court Bench Book

⁹ s93(4) LASPOA 2012 - the requirement is 'such consultation (if any) as is reasonably practicable in all the circumstances of the case' (s93(9) LASPO 2012)

¹⁰ Section 93 LASPO 2012 states that the court can also impose electronic monitoring conditions for the purpose of compliance with the other conditions imposed i.e. therefore not for standalone monitoring.

¹¹ s93(3)(a) LASPO 2012

Further detail on accommodation

- The placement decision is made by Children's Services of the designated LA. The LA can change the designated address without going back to the court.¹²
- The court may also stipulate that the child must not be placed with a named person.¹³
- The LA must refer to statutory guidance to inform their placements and care plans for the remanded child.¹⁴ In line with that guidance, RLAA placements can be: in the child's home, with a relative, in foster care, a children's home or in an 'other arrangements' placement if the child's needs are best met by the services provided in one of the exempted regulated settings.¹⁵
- Where a LA is concerned that a child has a history of absconding and if the child absconds is likely to suffer significant harm, or, whilst on RLAA is likely to injure themselves or other persons, the LA may apply to the court for a child to be remanded in secure accommodation.¹⁶ This will enable the LA to place the child in a secure children's home.¹⁷

Breach of RLAA

- Paras 44-47 of the Circular set out the legal position on breach of RLAA.
- It can be even more serious to breach RLAA conditions than conditional bail. If the court decides the child has broken a condition of the RLAA, it will consider a range of options in response, including warning the child, varying the conditions, or in the case of serious and/or persistent breaches, whether the conditions for RYDA have now been met. The local authority should take all actions possible to engage the child and support compliance.¹⁸

Differences between RLAA and RYDA

- Where 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 set out in s98 and 99 of LASPO 2012.
- Even for charges related to the most serious offences, the Crown Court will follow the same tests and has the option of granting bail, RLAA or RYDA.
- Where children are on RYDA 'it will also be best practice that, wherever possible and appropriate, the responsible authority should, in partnership with the child's lawyer and the responsible YOT, make representations to the court to secure bail or a remand to local authority accommodation.'¹⁹

RLAA and Custody Time Limits (CTL)

- When a child is remanded to local authority accommodation, even if the child is remanded to their home address, it is a secure remand and so custody time limits apply.²⁰ The court should complete the correct paperwork and provide a remand notice rather than a bail notice.

¹² Part 2, Reg14 of the Care Planning Regulations 2010 outlines steps the LA must take when terminating a placement.

¹³ s93(3)(b) LASPO 2012

¹⁴ Section 7 of the Local Authority Social Services Act 1970

¹⁵ The Children Act 1989 guidance and regulations - Volume 2. DfE 2021. s8.18 and s8.77.

¹⁶ Regulation 6 of the 1991 Regulations which was amended by the Children (Secure Accommodation) (Amendment) (England) Regulations 2015 provides that s.25 of the CA 1989 shall also apply to detained and remanded children where it appears that any other accommodation is inappropriate because the child is likely to abscond from that accommodation, or is likely to injure themselves or others if kept in that accommodation.

¹⁷ Need the approval from the Secretary of State to place a child under the age of 13 in secure accommodation, in accordance with Regulation 4 of the Children (Secure Accommodation) Regulations 1991.

¹⁸ s97(5) & (6) LASPO 2012

¹⁹ s83.2 The Children Act 1989 guidance and regulations - Volume 2. DfE 2021.

²⁰ s22(11) Prosecution of Offences Act 1985 defines "custody" as including local authority accommodation to which a person is remanded under s91 LASPO 2012.

- If a child absconds from either RLAA or RYDA and is re-remanded, the CTL stops unless the child has been charged with a new offence that would attract a CTL. Courts should ensure that the progression is maintained even without the CTL.²¹

RLAA and Time served

- Under section 240ZA of the Criminal Justice Act 2003, time spent on RYDA must be credited as time served. Under s325 of the Sentencing Act 2020, time spent on bail subject to a qualifying curfew (9 hours or more electronically monitored) counts towards time served.
- In the case of RLAA, there is no statutory provision to credit time whilst remanded to local authority accommodation, however the sentencer may take it into account and reduce the sentence by the relevant number of days if they think it is in the interests of justice to do so.²²

Differences between RLAA and Bail, or Bail Intensive Supervision & Support (ISS)

- The YJS should consider how all objections to bail can be addressed and managed in a creative bail ISS package which would enable bail to be granted.
- There is no statutory requirement that the RYDA threshold is met before bail ISS can be imposed.²³
- A qualifying bail curfew can count towards time served.²⁴
- CTLs do not apply to bail.
- If a child cannot be bailed to their home address and there is no other suitable address, the LA should provide an address and the court can direct the child to reside 'as directed by the Local Authority' as a condition of their bail.²⁵ The child becomes a LAC in this case. However, the LA may not lawfully detain the child as they can in the case of RLAA.

Child with Looked After Status

- If a child looked after who is already accommodated by the LA, or a child on a full care order, is brought to the court, the child can still be granted bail, RLAA or RYDA. It is very important that a child looked after is not disadvantaged because of their status.²⁶
- Children's services should attend court with the YOT. Children who are LAC can be additionally remanded to the care of the LA, possibly with a condition as to where they will live. This is likely to give the court increased confidence that their needs will be met.

Children who gain Looked After Status from RLAA

- LAC status requires the LA to provide accommodation, as well as to safeguard and promote their welfare.²⁷ This includes providing advice and support, including financial assistance, to ensure measures are in place to minimise the likelihood of the child (re)offending²⁸ and working with other agencies including YOT and CAMHS, etc.
- Support for a child on RLAA might include access to local diversionary programmes, therapy, counselling, mentoring and any other support required to meet a child's assessed needs.²⁹
- The LA is not required to prepare a "plan for permanence" for a child who has LAC status solely because of remand. However, consideration must be given to what longer term support or accommodation the child will need following the remand episode.³⁰

²¹ CPS guidance

²² R v A [2019] EWCA Crim 106

²³ Section 3(6) The Bail Act 1976 or s38(4)(c) of the CDA.

²⁴ Section 325 of the Sentencing Act 2020

²⁵ s.93(1) LASPO 2012.

²⁶ The Children Act 1989 guidance and regulations - Volume 2. s8.11 & s8.19

²⁷ Section 22(3) Children Act 1989

²⁸ The Children Act 1989 guidance and regulations - Volume 2. s8.3

²⁹ See, for example, [NICE Guidance on Looked after children and young people](#) and DfE guidance.

³⁰ The Children Act 1989 guidance and regulations – Volume 2 DfE 2021. s8.20

- Any child who has been on remand for more than 13 weeks, from the age of 14 (including one day on or after their 16th birthday), is eligible to receive leaving care services from that LA.³¹

Useful references

- LASPO 2012 [Chapter 3](#)
- PCSC Act 2022 [Section 159](#)
- Children Act 1989 [Section 22C](#) & [section 25](#)
- The Children Act 1989 guidance and regulations – [Vol. 2, DfE 2021](#)
- Youth Justice Board's [Case Management Guidance](#)
- [Youth Court Bench Book](#)
- MOJ [Review of Custodial Remand for Children](#) (2022)

³¹ Regulation 3(2)(c) & 3(4)(a) Care Leavers Regulations 2010