

Protocol for the placement of children and young people aged 14 – 17 in breach of a civil injunction

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Introduction

A number of civil injunctions are available to inhibit a range of concerning behaviours young people exhibit, or to protect individuals from violence. These injunctions can be applied for in the youth court and young people could ultimately end up in youth secure accommodation if they fail to comply with the requirements of an injunction. To help enforce these powers two civil orders are available to the court for a breach. They are a supervision order or a detention order.

This protocol has been produced to aid practitioners in the placing of young people subject to a civil detention order, into youth secure accommodation.

The rulings available to the youth court are:

- gang injunctions
- civil injunctions
- Criminal Behaviour Order
- Sexual Harm Prevention Order
- Sexual Risk Order

This protocol should be read in conjunction with the relevant statutory guidance and in the case of gang injunctions, the YJB supporting [documentation](#). It describes the background and process of admission to a secure children's home (SCH), secure training centre (STC) or under-18 young offenders institution (YOI) for a child or young person aged 14 -17 found to have breached a civil injunction.

The YJB Placement Service is tasked with placing young people effectively, appropriately and safely within the secure estate. Throughout this document all references to a 'placement' or 'admission' refer to the placement or admission into secure accommodation of a child or young person subject to a detention order imposed upon breach of a civil injunction. Placement and admission are used interchangeably throughout the protocol.

What are Civil Injunctions?

A civil injunction is a court order that requires a person to do or stop doing a specific action. Civil injunctions can be used in order to prevent possible injustice, and are the result of threatened or past violence. Civil injunctions can be imposed to seek to prevent Anti-social behaviour, sexual violence, and gang related violence. Each has different requirements that must be met and different mechanisms for breaches. An injunction should not be used to address criminal behaviour that can be dealt with through criminal law. The injunction works by placing a range of prohibitions and/or requirements on the young person to prevent particular behaviours.

Breach of a Civil Injunction

Breach of an injunction by a respondent aged 14-17 can be dealt with in different ways, as the following table shows.

Injunction power	Legislation	Existing supporting documentation	Qualifying criteria	Process for Breach
Gang injunctions	The Policing and Crime Act 2009 http://www.legislation.gov.uk/ukpga/2009/26/contents	Home Office statutory guidance https://www.gov.uk/government/publications/statutory-guidance-injunctions-to-prevent-gang-related-violence--2 YJB supporting documentation https://www.gov.uk/government/publications/placement-protocol-for-young-people-breaching-a-gang-injunction	The activities of a group that consists of at least 3 people, and has one or more characteristics that enable its members to be identified as a group. The injunction must prevent gang-related violence or gang related drug dealing activity or to protect an individual from gang-related violence or gang related drug dealing activity	Non-criminal, application for injunction brought by applicant Breach must be proven beyond reasonable doubt Fine, discharge Maximum 6 month Supervision Order Maximum 3 month Detention Order
Civil Injunction	Anti-social Behaviour Crime and Policing Act 2014 http://www.legislation.gov.uk/ukpga/2014/12/contents	Home Office statutory guidance http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final_2_.pdf	Court is satisfied that on the balance of probabilities the young person has engaged or threatens to engage in anti-social behaviour and the court considers it is just and convenient to grant the injunction for the purpose of preventing the person from engaging in further anti-social behaviour Anti-social behaviour under the ASBCPA 2014 is conduct that has caused, or is likely to cause, harassment, alarm or distress to any person: conduct capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises; or, conduct capable of causing housing-related nuisance or annoyance to any person	Non-criminal, application for injunction brought by applicant Breach must be proven beyond reasonable doubt Fine, discharge Maximum 6 month Supervision Order Maximum 3 month Detention Order
Criminal Behaviour Order	Anti-social Behaviour Crime and Policing Act 2014 http://www.legislation.gov.uk/ukpga/2014/12/contents	Home Office statutory guidance http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final_2_.pdf	A criminal court (Crown, magistrates' or youth courts) can make a CBO where young person is convicted of an offence. The court may make a CBO against a young person only on application by the prosecution, and only in conjunction with a sentence in respect of the offence, or in conjunction with an order discharging the offender conditionally. For a CBO to be made the court must be satisfied, beyond reasonable doubt, that the offender has engaged in behaviour that caused, or was likely to cause,	Breach is an offence Breach proceedings brought by the CPS On summary conviction fine or maximum six month civil detention order On indictment full youth court sentencing powers

			harassment, alarm or distress to any person; and that the court considers making the order will help prevent the offender from engaging in such behaviour	
Sexual Harm Prevention Order	<p>Part 2 Sexual Offences Act 2003 http://www.legislation.gov.uk/ukpga/2003/42/contents</p> <p>Amended by the Anti-social Behaviour Crime and Policing Act 2014. http://www.legislation.gov.uk/ukpga/2014/12/contents</p>	<p>HO statutory guidance https://www.gov.uk/government/publications/guidance-on-part-2-of-the-sexual-offences-act-2003</p>	<p>A Sexual Harm Prevention Order (SHPO) can be made by a court in respect of an individual who has been convicted, cautioned etc. for a relevant offence and who poses a risk of sexual harm to the public in the UK or children or vulnerable adults abroad.</p> <p>It can only include prohibitions.</p>	<p>Breach is an offence,</p> <p>Breach proceedings are brought by the CPS</p> <p>On summary conviction fine or maximum six month civil detention order</p> <p>On indictment full youth court sentencing powers</p> <p>Court has no discretion to grant a conditional discharge</p>
Sexual Risk Order	<p>Part 2 Sexual Offences Act 2003 http://www.legislation.gov.uk/ukpga/2003/42/contents</p> <p>Amended by the Anti-social Behaviour Crime and Policing Act 2014. http://www.legislation.gov.uk/ukpga/2014/12/contents</p>	<p>HO statutory guidance https://www.gov.uk/government/publications/guidance-on-part-2-of-the-sexual-offences-act-2003</p>	<p>Sexual Risk Orders can be imposed where the court is satisfied that the individual has done an act of a sexual nature as a result of which it is necessary to make the order, in order to protect the public, a member of the public, children, vulnerable adults, including outside the UK.</p>	<p>Breach is an offence,</p> <p>Breach proceedings are brought by the CPS On summary conviction : fine or maximum six months detention, or both</p> <p>On indictment full youth court sentencing powers</p> <p>Court has no discretion to order a conditional discharge</p> <p>Breach will render the defendant subject to the notification requirements in Part 2 of the 2003 Act</p>

Where the behaviour amounting to a breach of injunction attracts a criminal sanction, the placement protocol in existence for young people sentenced to custody in the youth court will apply. This section will focus on those in breach of a civil injunction where the sanction remains civil (i.e. a supervision or a detention order).

14 – 17 year olds cannot be securely remanded if in breach of any of the civil injunctions, only bailed.

The court retains its inherent powers to deal with a contempt of court (e.g. no further action to be taken or a fine) but in addition is given two specific powers in Schedule 5A to the 2009 Act: a supervision order or a detention order, which can be applied to those orders where the disposal is not criminal.

Where the court is satisfied beyond reasonable doubt that the child or young person has failed to comply with the conditions of a supervision order, it may revoke that order and either make a new supervision order (possibly with more stringent conditions) or make a detention order.

A detention order may last for not more than three months (beginning on the day when the order is made).

How a placement decision will be made

In order to make an effective placement, the YJB Placement Service considers six main areas. It is important to note that the areas listed below are significant factors for placement within the secure estate and not necessarily connected to significant risks factors within the community.

- basic information (age and gender)
- previous history within the secure estate
- at risk of harm
- risk posed to others
- special requirements, resources needed to engage and welfare needs
- YOT placement recommendation and presentation at court

Placement Process

Young people made subject to an order for breach of a civil injunction will be placed by the YJB Placement Service into one of the following establishment types as defined by s 107, Powers of Criminal Courts (Sentencing) Act 2000 which defines “youth detention accommodation” as including:

- an STC
- a YOI
- accommodation provided by or on behalf of a local authority for the purpose of restricting the liberty of children and young people
- accommodation provided for that purpose under subsection (5) of section 82 of the [1989 c.41.] Children Act 1989 (financial support by the Secretary of state)
- such other accommodation or descriptions of accommodation as the Secretary of State may by order specify

The relevant YOT will be aware that a child or young person aged 14 – 17 is to be subject to breach proceedings and so in advance of the breach hearing at court will provide the following electronically to the YJB Placement Service:

<i>Mandatory</i>	<i>Where relevant to circumstance(s)</i>
Placement Information Form (PIF) <i>(which will identify the</i>	Risk of Serious Harm (RoSH) <i>if available and recent/relevant</i>

circumstances, risks and issues in relation to the young person)

This is the only document used by the YJB Placement Service to make placement decisions and should be sent at least 24 hours prior to the court appearance and be no older than 7 days

Core or Bail Asset

This should be no older than 30 days

Post-court report (PCR)

This must be completed and received within 72 hours of the court date.

**Risk Management Plan (RMP)
*if available and recent/relevant***

**Vulnerability Management Plan (VMP)
*if available and recent/relevant***

**Pre-sentence report (PSR)
*if available and recent/relevant***

Any other relevant document or report that would help safeguard the young person on admission to custody

The key factors from this assessment that will influence what type of secure estate accommodation they are placed in by the YJB Placement Service, include:

- risk of self-harm
- having been bullied, abused, neglected or depressed
- separation, loss or care episodes
- taking risk
- risk to others
- substance misuse
- other health-related needs
- the ability to cope in a YOI or other custodial establishment
- any prohibited associations, and any other gang related issues that could affect the respondent while in custody

When a placement is being sought the YJB Placement Service considers all the information made available on the young person and advises the YOT officer of the most suitable establishment for the young person based on their individual needs, risks and circumstances. This should include information from the local authority if the child or young person is known to them.

The YJB Placement Service aims to prioritise SCH places for younger children and those with the most complex needs. There are systems in place to monitor placements and the local authority in conjunction with the YJB Placement Service can transfer young people as appropriate.

In the case of a potential placement into a SCH or STC the YJB Placement Service will then contact the establishment to notify them of the likely placement, and send all available assessment information electronically to the

establishment to enable them to make an assessment as to whether they are able to meet the needs of the young person.

The establishment then has 30 minutes from receipt of the information in which to consider the paperwork, decide whether they are able to meet the needs of the young person taking into account the other residents and notify the Placement Service. Staff from the establishment may wish to discuss the young person directly with the YOT officer.

The YJB expects establishments to have processes in place so that they are able to make a decision within 30 minutes. In exceptional circumstances the STC or SCH can contact the Placement Service advising that they require longer (up to one hour in total) to make the decision, outlining their reasons why this additional time is necessary.

Within 30 minutes, or one hour if agreed, of receipt of the information the SCH or STC must notify the Placement Service of their decision by telephone and, if the placement is deemed "unsuitable" provide written record of the reasons for their decision. The written confirmation must be received within the same timeframe; 30 minutes, or one hour if agreed, from the receipt of the information. In such cases the YJB Placement Service reserves the right to insist the placement goes ahead.

In the case of a placement into a YOI the YJB Placement Service will allocate the closest establishment unless either there are no places available or by agreement with the YOT/local authority an alternative YOI is deemed the most appropriate.

Following the court appearance the YOT must complete a post court report and send it electronically via YJB Placement Service to the allocated establishment. In certain circumstances where a YOT does not have access at court to their computer systems their priority is to ensure that this document is passed to the establishment to aid admission and first night safeguarding of the young person.

Once confirmed the YJB Placement Service will create an eAsset record containing all available documents and notify electronically the allocated establishment, escort provider, YOT that the placement has been made.

It is expected that this will be the placement for the duration of the order. If difficulties arise after the placement is made then a transfer may be appropriate and this must be discussed between the establishment, local authority and the YJB Placement Service using the separately agreed transfer procedures that are in place.

The establishment cannot admit the young person if she/he arrives either without a court warrant or with an incorrect one. If this occurs during office hours the responsible YOT officer should liaise directly with the court to issue or amend the warrant. The YOT should ensure that they know the local arrangements for contacting a court clerk or court

out of office hours. YOTs should also familiarise themselves with officers administering the cells, with a view to gaining easy access for vulnerability.

Transport Arrangements

If placed into a SCH or STC the transport arrangements will be undertaken by the YJB's Escort Provider and arranged by the YJB Placement Service.

For all YOI placement's, arrangements will be made by the YJB Placement Service with the PECS Escort Providers GeoAmy or Serco Wincanton.

In both cases relevant risk information will be electronically passed to the providers by the YJB Placement Service to ensure that the escort journey is undertaken as safely and securely as possible.

Planning and Review

In accordance with good practice it is expected that following admission an initial planning meeting should be held within ten days.

This initial planning meeting must:

- Determine whether an appeal or revocation application should be made immediately or at some point during the period of the detention order.
- Determine whether the placement is the most suitable for the young person and consider whether alternatives should be discussed with the YJB Placement Service.
- Prepare a regime plan setting out what training programme will be offered to the young person by the establishment.
- Discuss any other relevant issues related to the young person's placement, care, legal status, and individual needs including the arrangements for family and legal visits.

Consideration should be given if any further review meetings should be held to plan for release.

Family Visits

The establishment will facilitate visits from members of the young person's family in accordance with the regime plan and requirements of any relevant service level agreement, contract or Prison Service Instructions.

Legal Visits / Representatives of the local authority

The establishment will facilitate any visits to the young person as required, ensuring that representatives from the responsible local authority are able to speak with the young person in private.

Complaints and Representations

All establishments have complaints procedure in place, and each young person has access to an independent person (or advocate) who visits on a weekly basis.

Safeguarding arrangements and responsibilities

All establishments have comprehensive Safeguarding Procedures in place which have been established in accordance with Working Together to Safeguard Children (2010).

<https://www.education.gov.uk/publications/standard/publicationDetail/page1/DCSF-00305-2010>

For Wales: Safeguarding Children: Working Together under the Children Act 2004

<http://wales.gov.uk/topics/childrenyoungpeople/publications/safeguardingunder2004act/?skip=1&lang=en>

Release

It is a matter for the local authority under s 40(1) (b) of the Crime and Disorder Act 1998 as to what role (if any) the YOT operates with regards to the resettlement planning and release arrangements for young civil detainees.

Following completion of the order there is no statutory requirement for any supervision within the community, however the YOT should may want to ensure that the establishment has made appropriate release arrangements. The YOT should take a view to whether any voluntary post-release arrangements should be provided taking into account resettlement and safeguarding principles

In any event, the young civil detainee will need support following release from custody, in most instances this support may be achieved through the existing requirements and prohibitions of the injunction. At this stage it would be beneficial to re-assess the young civil detainee's circumstances, risk and vulnerability. If the conditions of the injunction are no longer able to support the young civil detainee in meeting the injunction objectives, the applicant has the power to apply to the court to vary the requirements or prohibitions, to ensure they are appropriate and supportive.

YJB Placement Service – Contact Details

The YJB Placement Service is contactable at all times both in and out of office hours on the following telephone number:

0845 363 633

Annex A

Civil Detainees

Provisions for injunctions to prevent gang-related violence to be sought against an individual, and provisions for breach of an injunction to be enforced against 14 to 17 year olds are contained in the Policing and Crime Act 2009. Gang injunctions allow courts to place a range of prohibitions and requirements on the behaviour and activities of a person involved in gang-related violence, or to protect them from gang-related violence. Breaches of an injunction can be dealt with by the imposition of either a supervision order or a detention order of up to three months in duration. Where the young person is the subject of a detention order for breach of a gang injunction, they will be referred to and treated as civil detainees.

Young civil detainees must be treated in the same way as a convicted young person except that the following privileges should apply (i.e. as if they were unconvicted)

- They are not required to share cells unless they wish to or there are exceptional circumstances, but their consent must be sought.
- The young person may wear their own clothes as long as it is suitable, clean and tidy unless there are reasonable grounds for believing that there is a serious risk of escape and if they did so, they would be highly dangerous to the public, the police or the security of the state. They can send and receive as many letters and visits as they wish within reasonable limits and subject to conditions as directed by the Secretary of State.
- Association with convicted young people is permitted as long as such activities are supervised and enables the young civil detainee to have a better choice of activities, education, etc. than they would if they were kept separate. However they must not be forced to do so if they object.
- They may have a registered medical practitioner or dentist attend to them if they so wish and agree to pay any expenses incurred. Governors should allow such requests where there are reasonable grounds and the establishment's medical practitioner has been consulted unless the Secretary of State directs otherwise.

In the event that a young person receives a detention order, YOTs must follow the same process as they do for those receiving Detention and Training Orders. The electronic transfer of a placement information form, post court report, a recent Asset, risk of serious harm (ROSH) and vulnerability assessment. To assist the effective and safe placement of the respondent, it is important that the placement information form, contains detail about any prohibited associations, and any other gang related issues that could affect the respondent while in custody. If no issues have been identified, the YJB placement team will attempt to identify as placement as near to the young civil detainee's home area as possible.

It is important that the YOT officer at court, acquires the court warrant of detention, and that warrant is correct, as establishments will not accept respondents with incorrect warrants. In the event there are problems with the paperwork, YOTs will need to know the out of hours / duty clerk contact for the administering court. The YJB will use existing transport arrangements to transport these young people from court to an establishment.

At court YOTs should familiarise themselves with officers administering the cells, with a view to gaining easy access to assess for vulnerability. Respondents receiving civil detention orders will be subject to a sentence planning process, and the YOT should attend a planning meeting within five days of the imposition of the detention order.

Resettlement and Aftercare

Unlike Detention and Training Orders, Detention Orders for a breach of a civil injunction do not contain a post custody training element and there is no statutory obligation for post release supervision. It is a matter for the local authority under s 40(1) (b) of the Crime and Disorder Act 1998 as to what role (if any) the YOT operates with regards to the resettlement planning and release arrangements for civil young persons.

In any event, the young civil detainee will need support following release from custody, in most instances this support may be achieved through the existing requirements and prohibitions of the gang injunction. At this stage it would be beneficial to re-assess the young civil detainee's circumstances, risk and vulnerability. If the conditions of the injunction are no longer able to support the young civil detainee in meeting the injunction objectives, the applicant has the power to apply to the court to vary the requirements or prohibitions, to ensure they are appropriate and supportive. Before an applicant returns to court to vary the conditions of an injunction, consultation partners must be consulted.