

# **National Protocol for Case Responsibility**

**Practice Guidance for Youth Offending  
Teams in England and Wales**

**January 2018**

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# Acknowledgements

This document is an update of the *National Protocol for Case Responsibility* (Youth Justice Board, 2014) which included contributions from:

- the Department for Education
- the Ministry of Justice
- the Association of Chief Police Officers
- the Association of Directors of Children's Services.

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# 1. Introduction

- 1.1 Under the Crime and Disorder Act 1998, youth offending teams (YOTs) are responsible for providing youth justice services to all children and young people within their area. There are significant challenges for YOTs which have a high number of cases transferred into their areas. However, it is imperative that the best quality services are available to all children and young people regardless of where they would usually live.
- 1.2 Improving practice in relation to case transfers and the management of cases where children and young people are living away from their home local authorities will produce better outcomes for children and young people and enable greater public protection. Continuity of supervision and support, during a time often fraught with risks to the child or young person and others, is vital if reductions in reoffending and improved community safety is to be achieved.
- 1.3 There are numerous practice scenarios in which children and young people require youth justice services while outside the area in which they normally live. It is impossible to anticipate every practice scenario; therefore, this guidance document provides:
  - a set of overarching principles designed to assist local services to:
    - work in partnership with others to support practice that safeguards children's welfare
    - manage public protection issues
    - ensure supervision meets court expectations
  - guidance in relation to practice; for ease of reference this is divided into three broad areas of practice: prior to court, at court and post- sentence
  - dispute resolution process.
- 1.4 Case transfer is a critical period for children and young people and youth justice services are expected to work together to ensure their welfare is properly safeguarded, continuity of existing court orders is maintained and any risks the child or young person poses to the public are minimised.

- 1.5 This document replaces the 2014 *National Protocol for Case Responsibility*. Revisions have been made to incorporate:
- Changes introduced by the implementation of AssetPlus - the new assessment and planning interventions framework developed by the Youth Justice Board (YJB). This replaced 'Asset', and its associated tools. AssetPlus has been designed to provide a holistic end-to-end assessment and intervention plan, allowing one record to follow a child or young person throughout their time in the youth justice system. AssetPlus incorporates new and emerging policy areas such as speech, language, communication needs and gang affiliation, and also incorporates the latest areas of research such as desistance theory and the Good Lives Model. As of July 2017, AssetPlus is the only assessment framework available for YOT use under National Standards.
  - Changes introduced to Community Safeguarding and Public Protection Incidents (CSPI).
  - Youth justice services in Wales.
  - Guidance in relation to children and young people moving in/out of England & Wales (for example to Scotland or Ireland) will be in the next addition of the guidance.
- 1.6 This guidance should be read alongside other associated or pertinent guidance and/or reports:
- [National Standards for Youth Justice Services](#) (YJB, 2013)
  - AssetPlus Guidance (available on the [Youth Justice Resource Hub](#))
  - [Case Management Guidance](#) (YJB, 2014)
  - [YOT Data Recording Guidance](#) 2016/17 (YJB 2017)
  - [Process to Determine Designated Authority Guidance](#) (Ministry of Justice and YJB)
  - [Youth to Adult Transitions Framework: Advice for Managing cases which Transfer from Youth Offending Teams to Probation Trusts](#) (currently under review)
  - [Multi-Agency Public Protection Arrangements \(MAPPA\): Guidance for Youth Offending Teams](#) (2016)
  - [Community Safeguarding and Public Protection Incidents \(CSPI\) – Notification and Learning: Standard Operating Procedures for Youth Offending Teams](#) (YJB, 2017)
  - [Crown Prosecution Service Guidance on Human Trafficking and Smuggling](#)
  - [Modern Slavery Act](#) (2015)
  - [Criminal Exploitation of Children and Vulnerable Adults: County Lines](#)
  - [Youth Out-of-Court Disposals: Guide for Police and Youth Offending Services](#) (YJB 2013)
  - [Quick Reference Guides Out of Court Disposals](#) (MoJ, 2013)
  - Local safeguarding children and young people protocols

- AssetPlus Joint Working Protocol, available February 2018
- Youth Custody Service (YCS) Placement Guidance, currently being updated.

## 2. Principles

2.1 This protocol is underpinned by the following principles:

### Practice principles

- The welfare of the child or young person should remain paramount.
- Public protection needs should always be discussed, planned & addressed. This requires active consideration, planning and management.
- Children and young people should be involved in discussions about their case transfer and understand what the transfer means for them.
- Children and young people's established support needs should be catered for before, during and after their transfer.
- All children and young people should maintain a named supervising officer through the period of the transfer.
- Youth justice services should be provided at the same standard regardless of whether the case is the responsibility of the Home youth offending team (YOT) or is subject to temporary caretaking arrangements.
- Good communication between youth justice services and relevant local authorities is essential for effective service delivery.
- Relevant information should be shared between agencies in a timely and thorough way and recorded accurately.

### Dispute resolution principles

- Any disputed transfer and related issues be resolved at the lowest level possible.
- Any disputes should be resolved in the shortest possible timeframe.
- Services and partners have joint responsibility to resolve such disputes.
- Escalation of concerns should be through the YOT Management Board governance structure and in line with locally agreed procedures.

## 3. Terminology

3.1 The following terms apply.

### Establishing responsibility terms

- **Host youth offending team (YOT)** – the service that provides youth justice services to a child or young person who does not normally live within that service’s geographical area.
- **Home YOT** – the service where the child or young person normally resides; In the case of a looked-after child,<sup>1</sup> the service of the Designated Authority.
- **Designated Local Authority** – refers to the local authority determined by the court as having overall responsibility for the child or young person. This inevitably becomes the Home YOT for the duration of the delegation.

### Case transfer terms

- **Receiving YOT** – refers to the service taking overall responsibility for a child or young person’s criminal order from another service; the receiving YOT will become the Home YOT.
- **Originating YOT** – refers to a service transferring overall responsibility for a child or young person’s criminal order to another service.
- **Caretaking YOT** – refers to a temporary arrangement (usually for three months) where the Host YOT is, by agreement, responsible for the day-to-day management of the case.

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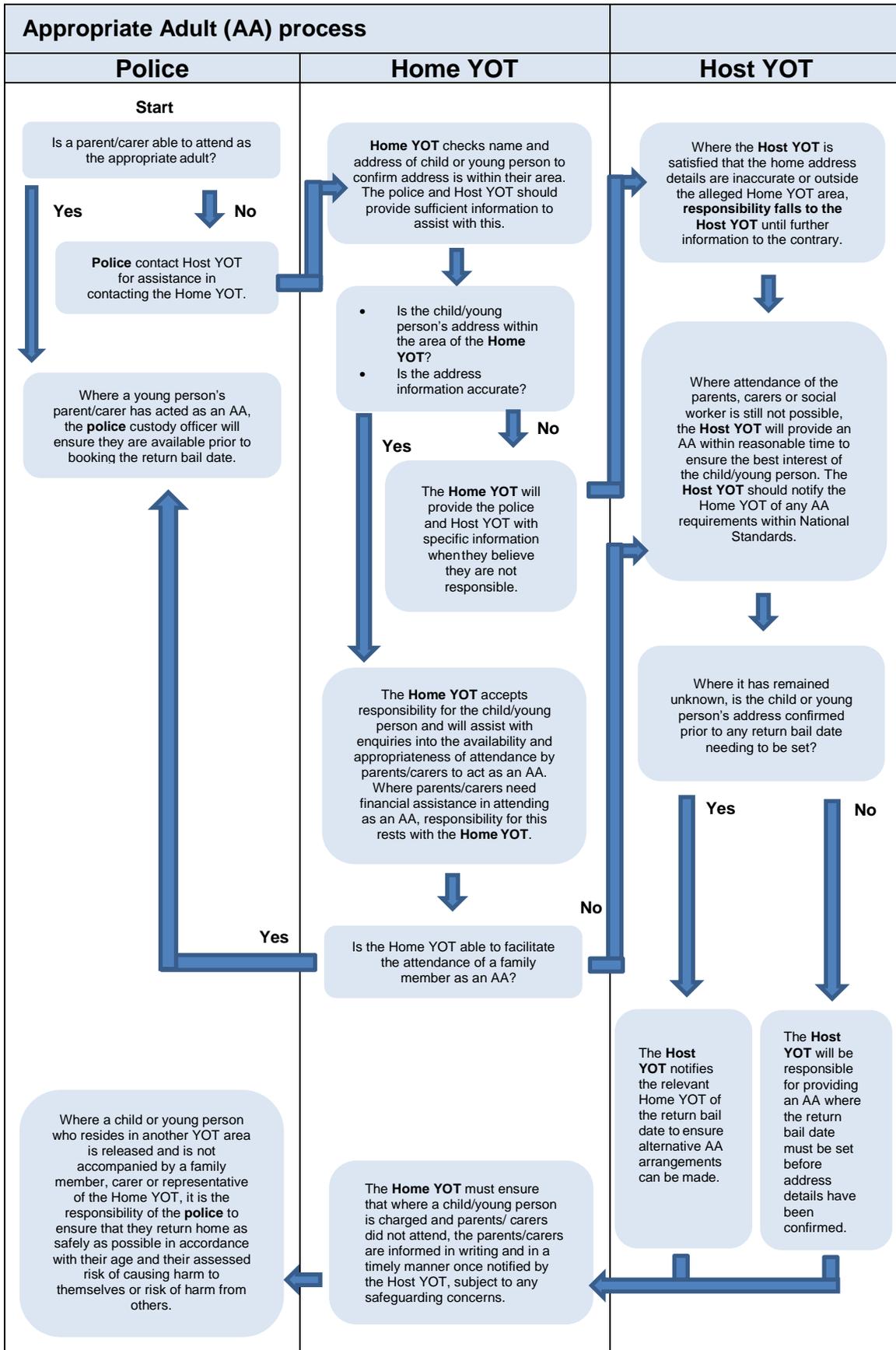
<sup>1</sup> ‘Looked-after child’ is used as opposed to ‘children in care’ to reflect the child or young person’s legal status (as per the Children Act 1989). ‘Children in care’ refers to a more specific population of children and young people than this document applies to, and so the broader term is used. Children Act 1989 and Social Services and Well-being (Wales) Act 2014.

## 4. Practice guidance notes

### Prior to court

#### Appropriate Adults

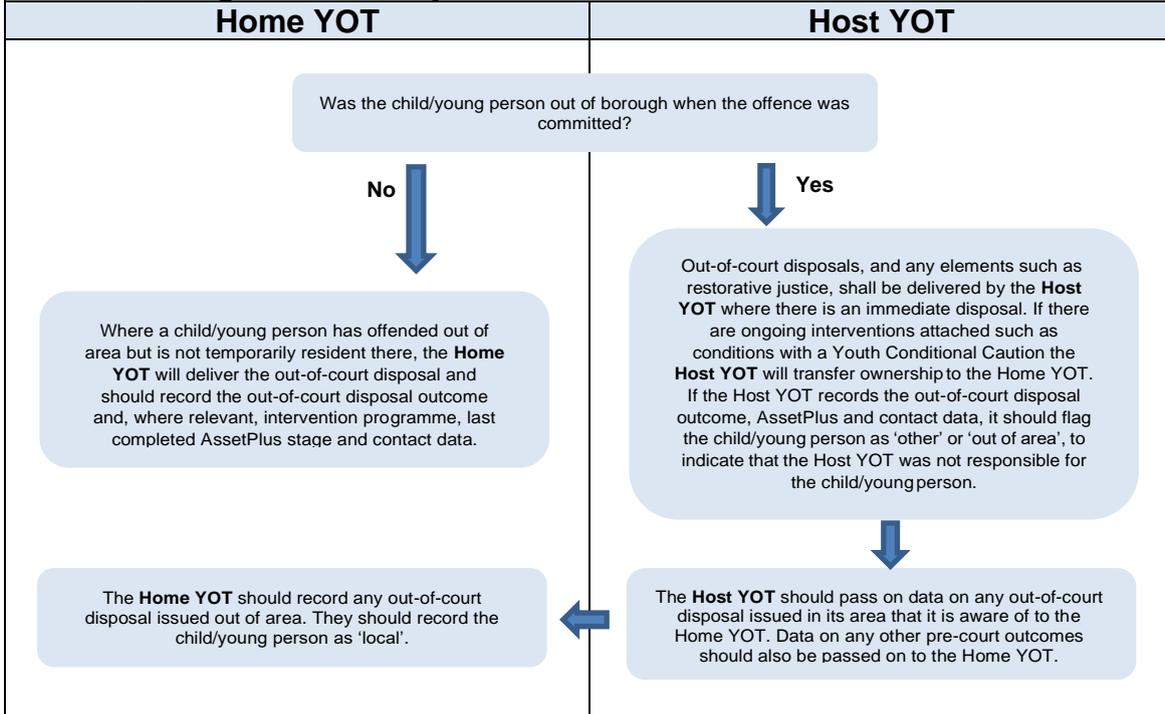
- 4.1 Under the Police and Criminal Evidence Act 1984 (PACE), the police are responsible for contacting their local (Host) youth offending team (YOT).
- 4.2 The process outlined below makes the assumption that there is no pre-arranged agreement between YOTs in relation to the provision of Appropriate Adults.
- 4.3 The Host YOT should provide an Appropriate Adult service after they have made reasonable efforts to obtain the relevant details from the Home YOT.
- 4.4 The Host YOT should advise the Home YOT of any local placements that may be deemed suitable for the provision of non-secure PACE beds. Discussions regarding the appropriateness of placement and costings should be agreed by the Home YOT/LA. The Home YOT/LA that holds responsibility for the child/young person, regardless of looked-after status, is financially responsible for the provision of non-secure PACE beds secured by the Host YOT.
- 4.5 Outside of normal office hours, where an Appropriate Adult is not forthcoming from the child or young person's family, it is the responsibility of the local authority where the police station is based to provide an Appropriate Adult. This will be either the YOT's out-of-hours Appropriate Adult service or the Emergency Duty Team, as appropriate.
- 4.6 The Home YOT should be notified within 24 hours of the outcome of the police interview.
- 4.7 For the purposes of this guidance, all children and young people under the age of 18 should be deemed as eligible for an Appropriate Adult service.



## Out-of-court disposals (pre-court)

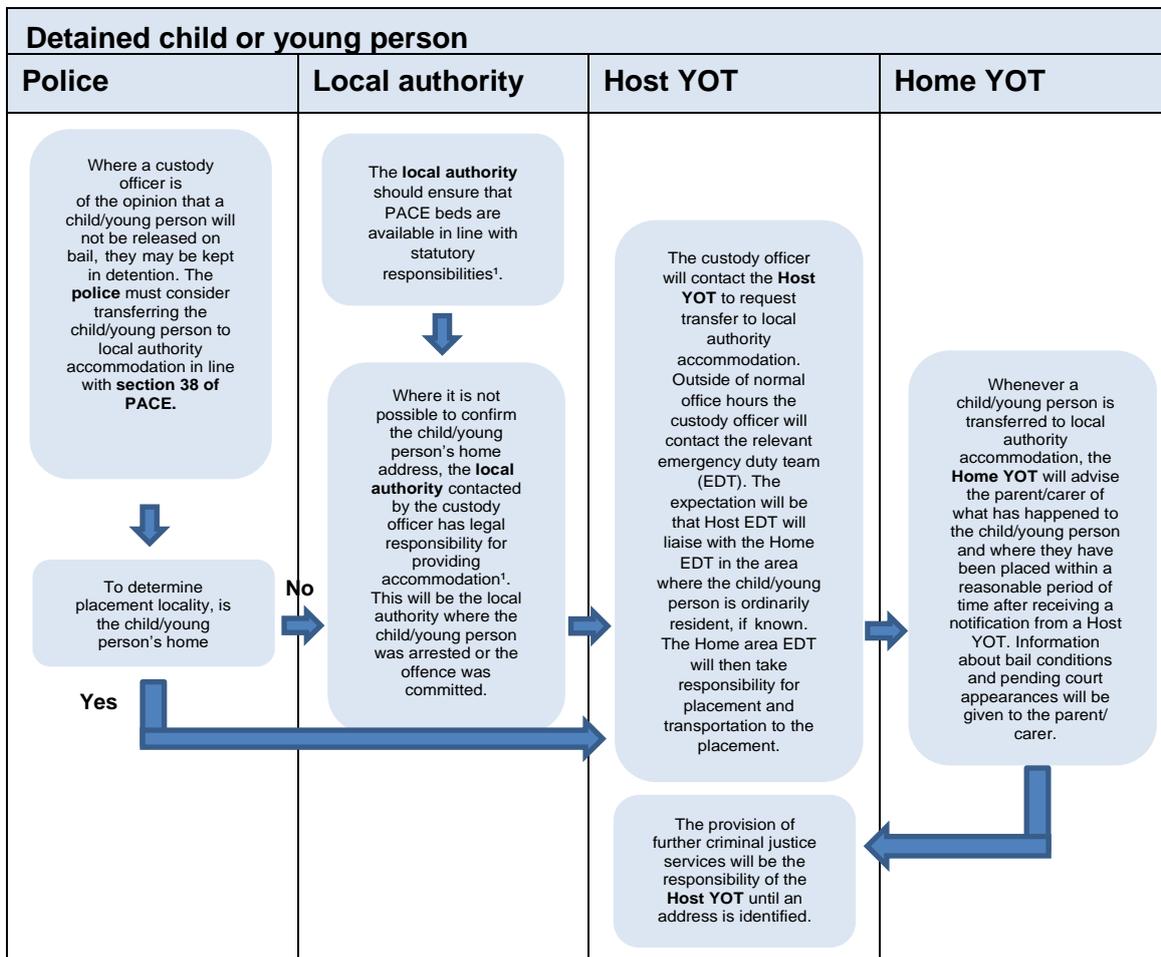
- 4.8 The Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 created a streamlined out-of-court-disposal youth framework, creating Youth Cautions (YC) and amending the legislation on Youth Conditional Cautions (YCC). The out-of-court-disposal youth framework consists of three recognised outcomes for children and young people: Community Resolution, Youth Caution and Youth Conditional Caution. Please refer to [Youth Out-of-Court Disposals: Guide for Police and Youth Offending Services](#) (YJB, 2013) and [Quick Reference Guides to Out of Court Disposals](#) (MoJ, 2013) for more information.
- 4.9 The extent of the YOT's involvement in the disposal will depend on the disposal used and local arrangements:
- A Community Resolution will normally be dealt with by the police independently; good practice would include the police informing the YOT of any Community Resolutions issued, giving information in relation to the name of the child or young person, their address and the offence for which the Community Resolution was issued.
  - A first Youth Caution can be decided upon by the police alone unless for an indictable-only offence, for which the authority of the Crown Prosecution Service is required. For all second or subsequent out-of-court formal disposals, or if the police have concerns regarding the child or young person, an assessment by the YOT is required prior to making the final decision to give a Youth Caution. Please refer to the AssetPlus 'out of court disposal' (O OCD) guidance. This guidance is incorporated within the AssetPlus guidance that can be found on the [Youth Justice Resource Hub](#).
  - In relation to Youth Conditional Cautions, the police and the YOT will jointly decide if this is an appropriate outcome (unless for an indictable-only offence, for which the authority of the Crown Prosecution Service is required). The child or young person will be subject to an assessment by the YOT, after which the YOT and the police will reach agreement on appropriate interventions or conditions that the YOT will then supervise. Please refer to AssetPlus 'out of court disposal' (O OCD) guidance. This is incorporated within the AssetPlus guidance that can be found on the Youth Justice Resource Hub.
- 4.10 A child or young person being dealt with by means of an out-of-court disposal will be dealt with by the police in the area in which they have offended. Therefore, if a child/young person offends outside the area where they normally live, the police will notify the YOT in the area where the offence was committed (the Host YOT). When this involves a Youth Conditional Caution, the Home YOT should be consulted so there is agreement regarding the conditions that the Home YOT will be responsible for monitoring.
- 4.11 The Host YOT should notify the Home YOT within 24 hours, so that the Home YOT can contact the police managing the child or young person's case and meet timescales and processes laid out within the standard operating procedures and the codes of practice and completing the relevant AssetPlus Stage if necessary.

## Out-of-court (Pre-court) disposals: Youth Caution, Youth Conditional Caution, Triage, Community Resolution



### Detained child or young person<sup>2</sup>

4.12 Responsibilities in respect of children and young people from outside a YOT's geographical area detained by the police are as follows.



<sup>2</sup> Children Act 1989 s21(2)b

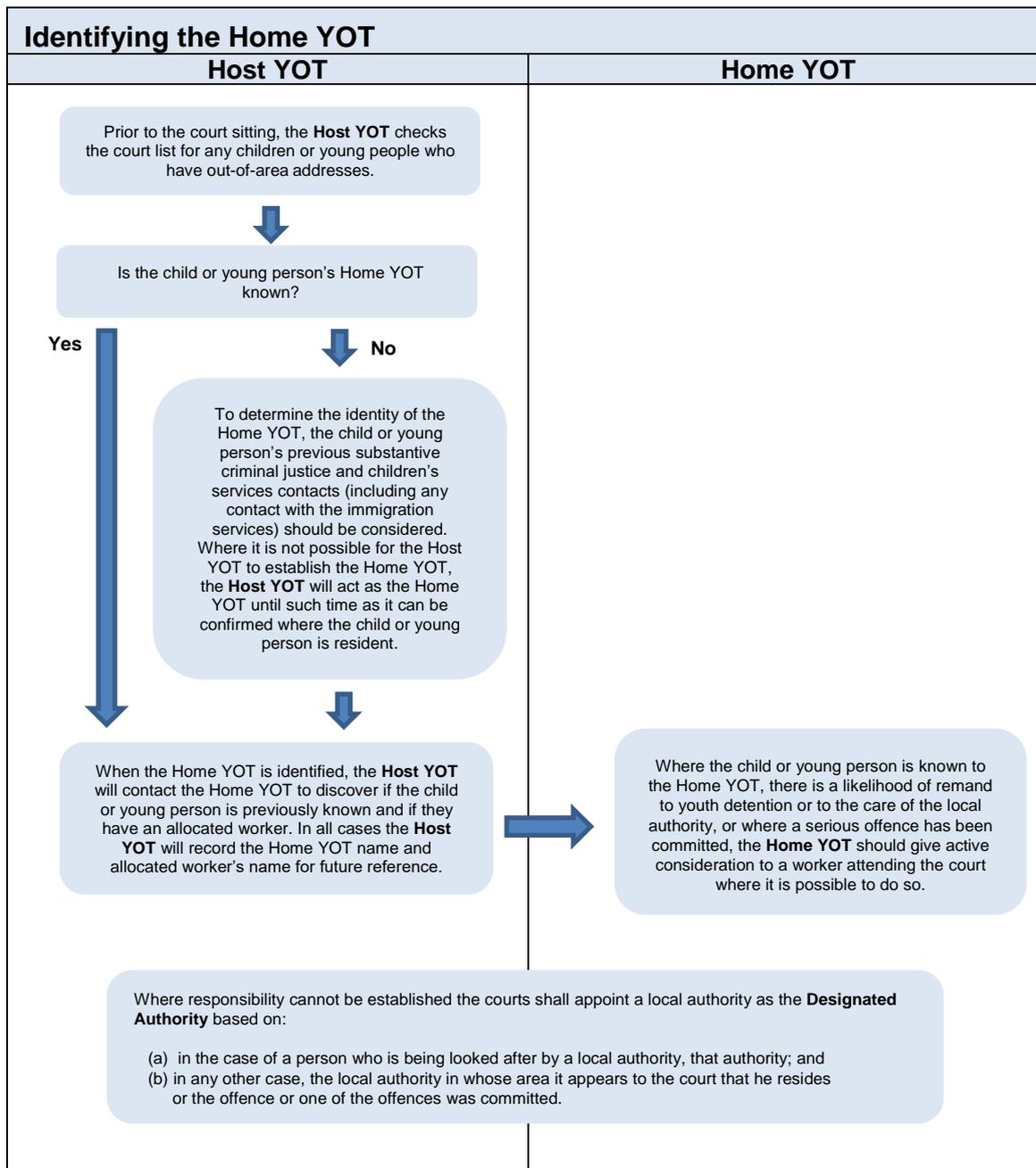
- 4.13 Wherever possible, unless it is impractical or constitutes a risk, a detained child or young person transferred to accommodation should be placed in their local community. Where the child is already a looked-after child, again, unless it is impractical or constitutes a risk, the placement should be the child's usual placement.

## At court

- 4.14 Processes outlined in this section pertain to children and young people making an appearance in an out-of-area court where a Host YOT is in attendance.
- 4.15 Quality and timely assessments of risks (posed both by and to the child or young person) are an essential safeguard for children and young people appearing in court. YOTs have a duty to ensure that accurate and current information about a child or young person is provided to courts and to the Youth Custody Service Placement Team utilising AssetPlus if there is the possibility that the child or young person will receive a custodial outcome. The failure to provide a completed AssetPlus Stage can generate additional and unnecessary safeguarding risks. For example, the Youth Custody Service may well direct a child or young person to an SCH/STC placement if they feel that the risks or issues relating to the child or young person well-being and safety are unclear. Such an environment will provide closer supervision and safeguarding, but will of course result in escalated costs which may not have been necessary had the relevant AssetPlus Stage been completed at the time of placement.
- 4.16 There should always be discussions between Home and Host YOTs whenever a child or young person who resides in one geographical area appears in a court in a different area. Host YOTs must refer to the guidance [Process for Determining the Designated Authority](#) (Ministry of Justice and YJB), which outlines practice advice in relation to the designated local authority.
- 4.17 In cases where it is known by the Home YOT that a child or young person is appearing in court, they are responsible for liaising with the Host YOT in advance of the appearance.

## Identifying the Home YOT

- 4.18 The process by which a Host YOT identifies the Home YOT of a child or young person appearing in their local court is as follows:



## Bail and remand

4.19 On occasions where a child or young person appears in an out-of-area court and their Home YOT has been identified, the following responsibilities apply in relation to completing a Bail Recommendation AssetPlus Stage and the accompanying Bail and Remand Module:

- It is the responsibility of the YOT where the bail address is located to assess the suitability of the proposed bail address by undertaking relevant checks, including the suitability of electronic monitoring.
- The findings of this assessment should be communicated to the Home YOT to endorse the proposed bail address.

4.20 A home visit should be undertaken to verify the address, this should be agreed between the Home and Host YOTs on a case-by-case basis.

- 4.21 In cases where the child or young person is moving local authority area as part of their bail conditions and they are subject to a bail support package, the Home and Host YOTs must agree the responsibilities for each YOT's involvement in the supervision of the child or young person.
- 4.22 In the interests of reducing avoidable remand to youth detentions, it is important that a potential Host YOT does its utmost to offer a bail support package to out-of-area children and young people which would satisfy the grounds on which the court is willing to grant bail.

### **Remands to local authority accommodation**

- 4.23 A court may impose any of the conditions on a child or young person remanded to local authority accommodation that it could if the child was given bail, but only after consultation with the Designated Local Authority. The court may also impose requirements on the Designated Local Authority to make sure these conditions are adhered to.<sup>3</sup>
- 4.24 Where there is a possibility that a child or young person will be remanded to local authority accommodation, the Host YOT must advise the Home YOT as soon as possible, so that the Home YOT/local authority can make escort arrangements in advance.
- 4.25 If the child or young person is then remanded into local authority accommodation, the Host YOT must inform the Home YOT immediately so that secure escorts can be notified to reduce any delay in collection. The Home YOT must give details of the escort company to the Host YOT. The Host YOT should keep a copy of the warrant and send a copy to the Home YOT and the Designated Authority.
- 4.26 The Host YOT must always ensure that arrangements are made for an appropriate person to remain with the child or young person while waiting for the secure escort to arrive.
- 4.27 In cases where a child or young person appears in court, and where there is an intention by the court to remand the child or young person to local authority accommodation and responsibility cannot be determined, the court must still designate a local authority, which is then to receive the child or young person<sup>4</sup> and that authority shall be:
- a. in the case of a person who is being looked after by a local authority, that authority<sup>5</sup>
  - b. in any other case, the local authority in whose area it appears to the court that they reside or the offence or one of the offences was committed.<sup>6</sup>

### **Youth detention accommodation**

- 4.28 The Home YOT has overall case ownership and is therefore responsible for ensuring that the mandatory placement documents (AssetPlus relevant Stages and accompanying Modules) are sent via Connectivity to the HMPPS/Youth Custody Service Placements Team.
- 4.29 In the event that any relevant AssetPlus stage is missing, the Home YOT

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<sup>3</sup> See the Legal Aid, Sentencing and Punishment of Offenders Act 2012 Section 93(1), 93 (4),93 (5) a&b

<sup>4</sup> See the Children and Young Person Act 1969 section 23(2) and the Legal Aid, Sentencing and Punishment of Offenders Act 2012 Section 92(2) -

<sup>5</sup> See the Legal Aid, Sentencing and Punishment of Offenders Act 2012 Section 92(3)a

<sup>6</sup> See the Legal Aid, Sentencing and Punishment of Offenders Act 2012

will be held accountable in accordance with existing YJB grant conditions.

- 4.30 The Host YOT present at court on the day of appearance must be able to contribute up-to-date information about risks to the child or young person's safety and well-being and any other information which comes to light during their contact with the child or young person. This is essential to reduce the possibility of inappropriate placements, lack of safeguarding measures, or risk of harm to others, and to provide continuity of any existing sentences and accuracy in invoicing local authorities.
- 4.31 In cases where the child or young person is not currently or previously known to the Home YOT, or the Home cannot be identified, the Host YOT must ensure that the documentation (including the warrant) is completed accurately and forwarded to the relevant agencies. Liaison with the Youth Custody Service Placements Team is essential to ensure the placement of children and young people subject to youth detention accommodation is appropriate. The Host YOT should keep a copy of the warrant and send a copy to the Home YOT, when established, or the Designated Authority.
- 4.32 In cases where a child or young person appears in court, and there is an intention to remand them to youth detention accommodation and responsibility cannot be determined, the court must still designate a local authority as the Designated Authority for the child:<sup>7</sup>
- a. in the case of a person who is being looked after by a local authority, that authority<sup>8</sup>
  - b. in any other case, the local authority in whose area it appears to the court that he/she habitually resides or, where the offence(s) was committed.<sup>9</sup>
- 4.33 The Home YOT will have financial and case management responsibility (inclusive of looked-after child status which has been a result of the remand to youth detention accommodation alone). It is of utmost importance to recognise safeguarding implications when a child or young person is remanded to youth detention accommodation and emphasis must be placed on regular and informed communication with stakeholders, including the Youth Custody Service and the secure establishment.
- 4.34 The remand legislation now contains provisions allowing for a designation of a local authority to be amended retrospectively for the purpose of recovering the costs of remanding the young person in secure accommodation. For example, if a local authority considers that it should not be the Designated Authority, it may apply to the courts to have the designation changed to reflect the correct authority (and the warrant amended accordingly). The effect of this will, if the court orders it, be that the new authority is deemed always to have been the designated authority. The YOT requesting the change must liaise with the authority it wishes to designate and must be prepared to provide the court with

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<sup>7</sup> See the Children and Young Persons Act 1969 Section 23(2) and the Legal Aid, Sentencing and Punishment of Offenders Act 2012 Sections 92(2) and 102(6).

<sup>8</sup> See the Legal Aid, Sentencing and Punishment of Offenders Act 2012 Section 102(7)b.

<sup>9</sup> See the Legal Aid, Sentencing and Punishment of Offenders Act 2012 Section 102(7)b.

reasons as to the change, such as confirmed address or previously unknown looked-after child status etc. In the event of a change to the warrant, the YCS must be informed to amend placement and invoicing records (a copy of the amended warrant must also be provided).

### **Occasional/Saturday court cover**

- 4.35 YOTs must contact Saturday and Bank Holiday courts before the start of court to confirm whether or not any youth cases are appearing.
- 4.36 Where a child or young person is appearing before an occasional court in another area, the Home YOT is known and there is a likelihood of a Youth Detention Accommodation Order, the Host YOT should liaise with the Home YOT to establish the Home Emergency Duty Team arrangements.
- 4.37 In the event of the Home YOT not being known please refer to section 4.27; the Host YOTs in such cases must refer to the *Process for Determining the Designated Authority* (Ministry of Justice and YJB) guidance.
- 4.38 In the event of a Youth Detention Accommodation Order being made, please refer to sections 4.28 to 4.32 which outlines responsibilities for placement documentation. Although if the Home YOT is unable to be contacted (because of the occasional/ Saturday nature of the appearance) then the Host YOT should complete and send to the Youth Custody Service Placements Team, the relevant completed AssetPlus Stage required to ensure the child or young person is placed appropriately. This information is essential in order to ensure that missing documents do not result in an inappropriate placement.
- 4.39 The Host YOT will ensure that when an out-of-area child or young person has appeared in an occasional or Saturday court they notify the Home YOT of the outcome on the first available working day.
- 4.40 The Home YOT must then satisfy itself that the relevant completed AssetPlus Stage has been submitted to the Youth Custody Service Placement Team and ensure that any additional information about the child or young person is passed to the relevant agencies and establishments.

### **New arrivals, foreign nationals, asylum seekers and trafficked children**

- 4.41 The welfare of children and young people who may have been trafficked, who are asylum seekers, illegal immigrants or unaccompanied foreign minors must be paramount in decision making and planning, just as it should be for all children.
- 4.42 The processes and responsibilities outlined in paragraphs 4.27 and 4.32 apply to children and young people who may have entered the country illegally or are in breach of any of the entry requirements.
- 4.43 In such cases, the United Kingdom Visas and Immigration Agency and/or the United Kingdom Immigration Enforcement Agency and the Host local authority's children's services department must be notified, and advice taken on the long-term management of the case.

4.44 Where appropriate, YOTs should encourage courts to clarify legal status. The following agencies/guidance may assist further:

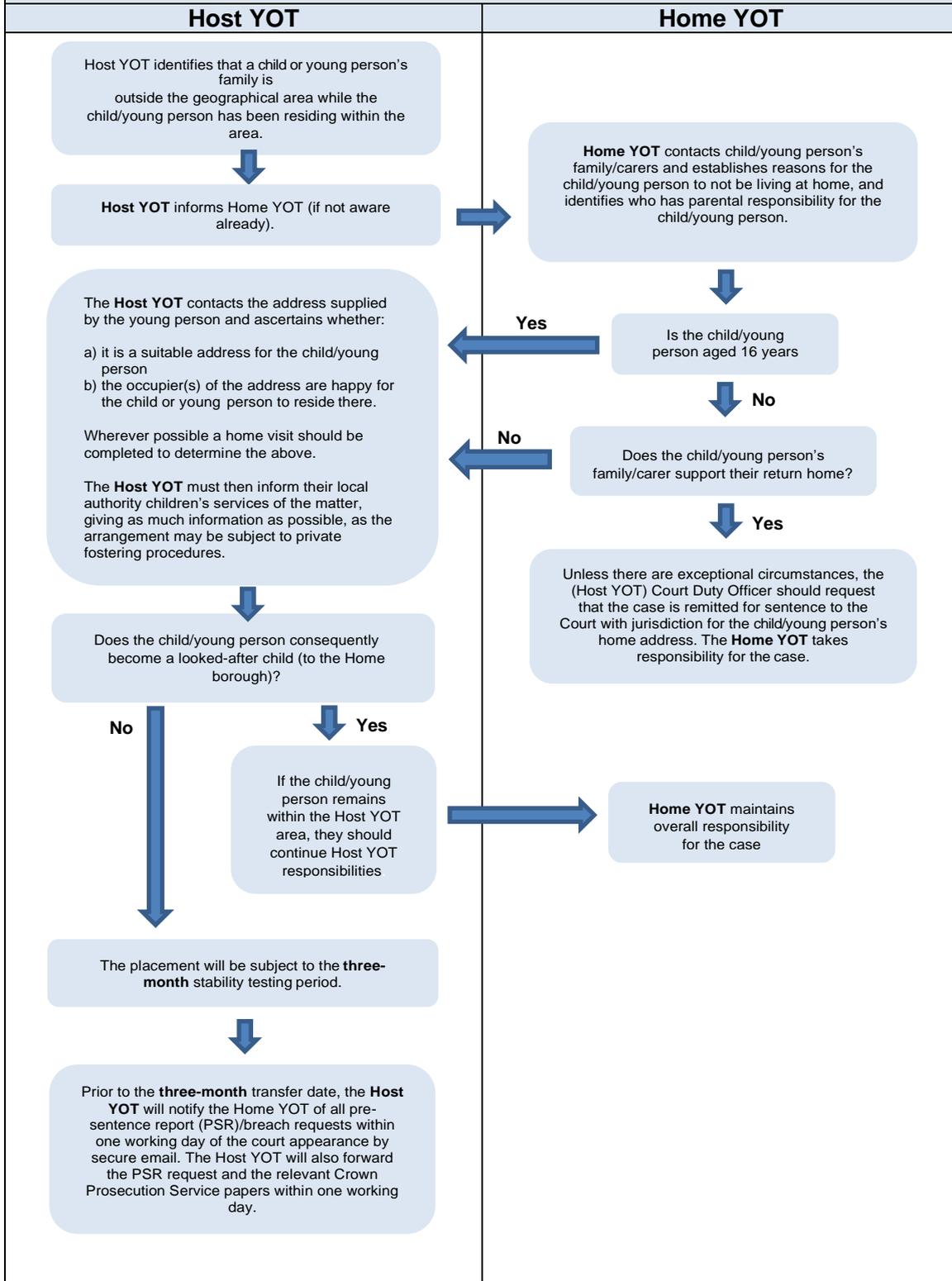
- [Crown Prosecution Service guidance on human trafficking and smuggling](#)
- [the NSPCC's National Child Trafficking Advice Center](#)
- [Home Office, in cases of unaccompanied asylum seekers](#)
- local immigration teams and Her Majesty's Prison and Probation Service Immigration, Repatriation and Removal Services.

4.45 When there is a dispute about the age of a child or young person, YOTs should consider contacting the above agencies for clarification. In the event that this is unsuccessful, the YOT could make representations to the court that is responsible for determining the child or young person's age and may request an assessment to assist in this process. The child or young person will be placed according to the age the court as deemed them to be.

### **Children or young people estranged from home and appearing in court**

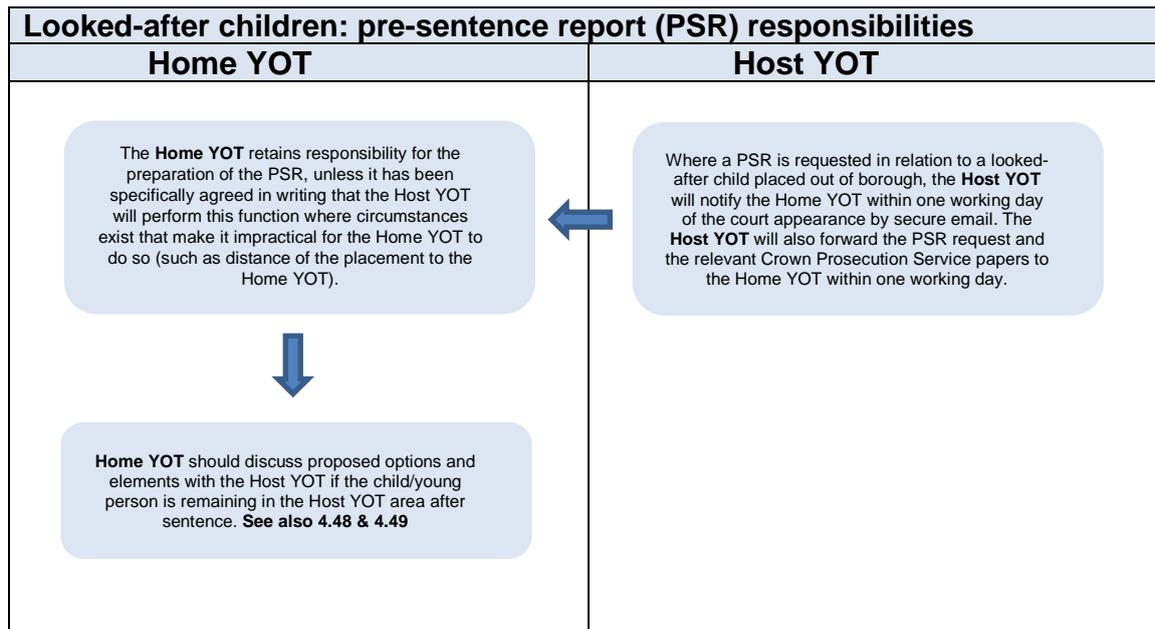
4.46 In the case that a child or young person appears in court and enquiries identify that the family home is outside of the YOT's geographical area, but the child or young person has been residing within their area, the following process should apply.

# Child/young person estranged from parental home and appearing in court



4.47 The responsibilities in respect of contacting a child or young person’s family should be decided between the two YOTs involved wherever possible. Factors such as whether the child or young person is known to the Host YOT may mean that they are in a position to perform this function themselves. Conversely, where the child or young person is not known to the Host YOT, it may be decided that the Home YOT is better placed to make this contact, but this will depend on the individual circumstances of each case. Liaison and communication is essential and the age and maturity of the child/young person should influence any decision.

### Looked-after children and pre-sentence reports

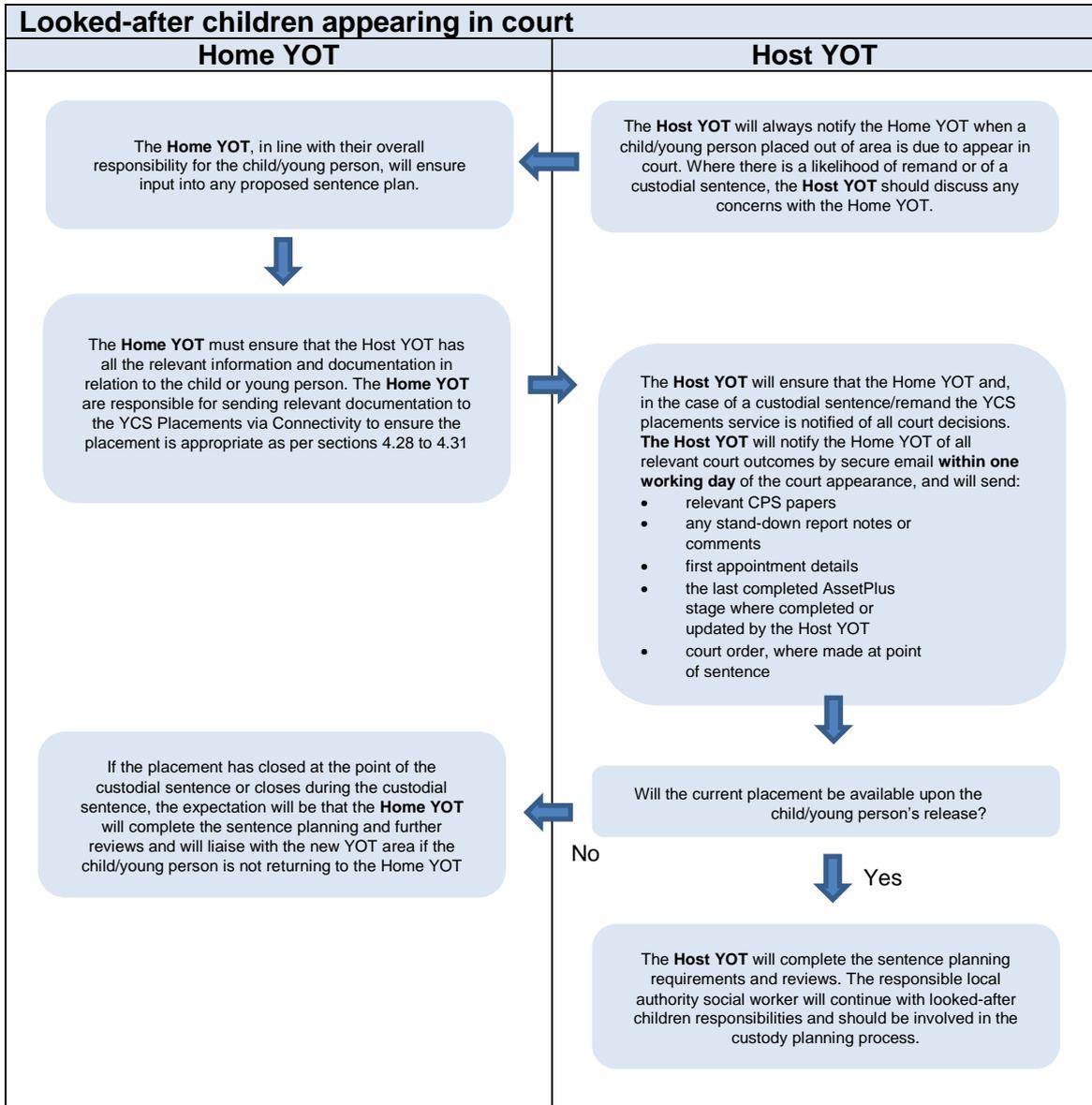


4.48 The process outlined above makes the assumption that no local arrangement exists between the two YOTs concerned as to the production of pre-sentence reports (PSRs). Subject to discussion, it could be the case, for example, that the Host YOT completes the offence analysis of the PSR and the Home YOT completes the remainder of the report, with reference to the child or young person’s care plan. As stated, this is for the agreement of the YOTs involved. For further guidance, see 4.51 & 4.52.

4.49 If a looked-after child is not currently known to the criminal justice system and offends while residing in a Host YOT area, the Home YOT will be responsible for ensuring a PSRs is available for the Court and where appropriate the commissioning of any other assessments for example Psychiatrist reports. In some circumstances, depending on the proximity of the placement to the Home YOT, it may be specifically agreed in writing between the YOTs that the Home YOT does not retain such practice functions. However, responsibility will rest with the Home YOT if such agreement cannot be obtained.

## Looked-after children appearing in court and there is a risk of custody

4.50 Where a looked-after child placed out of local authority area appears in a Host YOT's court, and there is a risk of custody (either remand or sentence) the following responsibilities apply.



## **Pre-sentence reports (PSR)**

- 4.51 The default position is that the Home YOT will be responsible for the production of PSRs. However, where circumstances exist which make this impractical (such as the distance between the Home YOT and a child or young person's placement), or it is indicated that the Host YOT would be best-placed to complete this function on the basis that they have more information about the child or young person and have a relationship with them (such as when the child or young person has been placed with them for a significant amount of time), discussion should take place between the two YOTs and written agreement should be reached as to who will be responsible for producing the report.
- 4.52 It is difficult to cover the multitude of variations and different circumstances which may arise with regard to individual cases, and therefore each case should be judged on its own merits when considering the production of PSRs. Ultimately, the best interests of the child or young person should remain the priority and guide the chosen course of action, which must be documented and agreed by both YOTs.

## **Stand-down/specific sentence reports**

- 4.53 In general, stand-down reports (SDRs) and specific sentence reports (SSRs) will only be completed for children or young people resident in the Home YOT geographical area. The Host YOT can encourage the court to request SDRs with the agreement of the Home YOT where it is agreed that sufficient current information about the child or young person (including about any risks posed to and by them) exists and staff resources allow.
- 4.54 Where an SDR/SSR assessment is being undertaken, if at any time during the assessment it becomes clear that such a report is not in the best interests of the child or young person (i.e. complexity of needs/risks), the assessment should be stopped and the court should be advised that a PSR is required.

## **Data recording in cases at court**

- 4.55 The Host YOT must take note of the court outcomes for children or young people usually resident outside of its geographical area in order to provide all relevant monitoring information to the Home YOT. The Host YOT may choose not to record this data on their case management system, or to delete it once the Home YOT has acknowledged receipt of it. If the Host YOT chooses to keep this data on its case management system, it must record the child or young person as 'other' or 'out of area'. A transfer in date and transfer out date is not required in this instance.
- 4.56 Clear recording is essential in determining case responsibility and financial implications in relation to the LASPO Act 2012.

## **Local justice areas**

- 4.57 Once caretaking arrangements have been agreed between the Host and Home YOT, the Home YOT is responsible for an immediate application to court to amend the order to reflect the new local justice area for where the child or young person will be residing. Amending the local justice area to that of the Host YOT does not amount to the transfer of overall case responsibility, and is used solely in relation to subsequent enforcement proceedings.
- 4.58 Any new court orders made in respect of the child or young person while resident in the Host YOT area should be made out to the Host local justice area.

## Post-sentence – Community

### Youth Rehabilitation Order/Scaled Approach/revised National Standards for Youth Justice Services

- 4.59 Due to variations in local provision and resources, some Youth Rehabilitation Order (YRO) requirements may not be available in Host or Receiving YOT areas. Therefore, it is the responsibility of the Home/Originating YOT to communicate with the Host/Receiving YOT prior to transfer to ensure that YRO requirements can be fulfilled. If there is disparity in what can be delivered by the Host/Receiving YOT, then it is the responsibility of the Home YOT/Originating YOT to return the order to court for variation in the order to comply with the Host/Receiving YOT provisions and resources prior to the transfer taking place. The Host YOT/Receiving YOT may need to assist the court with written or verbal confirmation of the requirements available in their area.
- 4.60 The Scaled Approach intervention level allocated by the Originating YOT should be continued by the Receiving YOT until the Receiving YOT has reassessed the child or young person's likelihood of reoffending, risk of serious harm to others and their resulting Scaled Approach intervention level. Any alteration in intervention level needs to ensure that a process of defensible decision-making is recorded on the YOT case management system, approved by a manager and the changes communicated clearly to the child or young person.
- 4.61 Due to the increased flexibility of the revised *National Standards for Youth Justice Services* issued in 2013, different requirements may exist in different areas and therefore Host YOTs and Receiving YOTs should communicate, discuss and apply their own agreed standards based upon the child or young person's likelihood of reoffending and risk of serious harm to others.
- 4.62 It is the responsibility of the Home YOT team to ensure that the electronic monitoring providers are notified and that the necessary applications in respect of a curfew variation are made to the relevant court (for YROs with Intensive Supervision and Surveillance (ISS) and Bail ISS), relevant under-18 young offender institution (for Detention and Training Order Notices of Supervision), or to the Ministry of Justice (for Section 91). This process should be completed prior to the transfer of the child or young person to ensure that there is no interruption in electronic monitoring.

### Child or young person moving residence within the family

- 4.63 In cases where a child or young person moves from living with one parent or family member to living with another parent or family member in a different geographical area, such a move will be subject to a stability- testing period of three months. In practice, this entails the Home YOT maintaining responsibility for the case for a period of three months, including the preparation of any court reports and matters relating to enforcement. However, the day-to-day management of the case should be completed by the Host YOT. See 4.57 for responsibilities in respect of local justice areas.
- 4.64 Where possible, a review meeting should take place at the end of the three-month period to formally hand over case responsibility; the Host YOT will then become the Home YOT.
- 4.65 If the placement breaks down within the three-month period, the central point for co-ordinating further youth justice services will be the Home YOT.

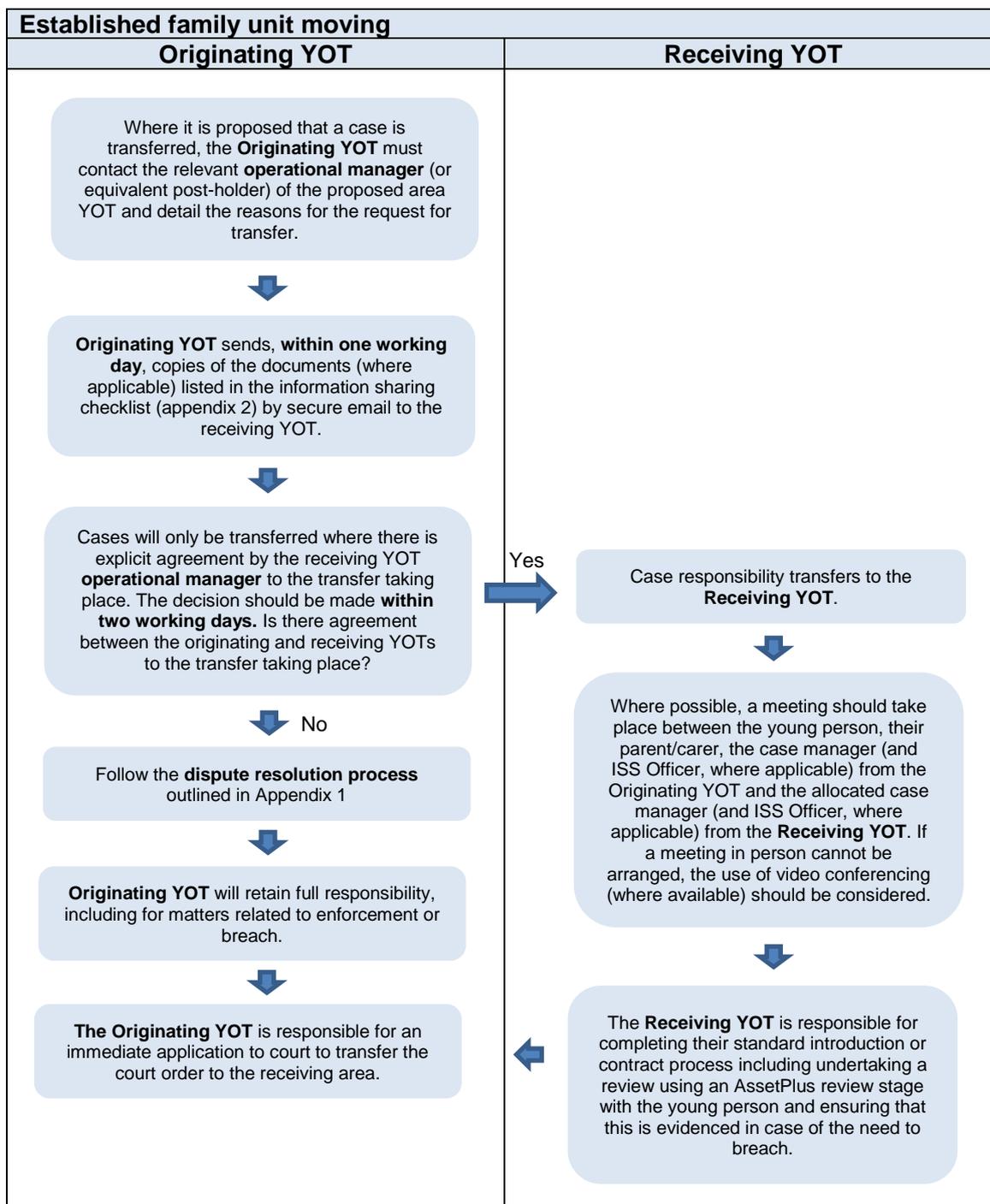
### **Data recording where move is within the family**

- 4.66 During the three-month stability testing period, the Host YOT will record the child or young person as 'other' or 'out of area' and the Home YOT will record the child or young person as 'local'. Once the placement is confirmed, the Home and Host (now Originating and Receiving) YOTs should agree a date which the Originating YOT will record as the 'Transfer out date', and the Receiving YOT as the 'Transfer in date', in line with the YOT Data Recording Guidance. This may be the formal date of transfer, or an earlier date from which, for practical purposes, the child or young person has transferred pending formalisation of the transfer.
- 4.67 All recording and responsibility will be transferred to the Receiving YOT from this agreed date. The Originating YOT must have a full data record for the child or young person up to the 'Transfer out date'.

The Receiving YOT must use the 'Originating Young Person ID' field on their case management system to record the YOT area where the child or young person originates from, in line with YOT Data Recording Guidance.

## Established family unit moving<sup>10</sup>

4.68 Where a child or young person subject to a court order that requires a YOT intervention or programme is living or intending to live in another YOT area, discussion must take place between the two YOTs as to the most effective plan to ensure consistency of supervision. The following process then applies.



<sup>10</sup> The established family unit is defined by the responsible parent/carer with whom the child or young person has been residing. Therefore, when this established unit moves, it is deemed as these members moving areas together. However, this would not include the child or young person moving by themselves to another parental address

- 4.69 Cases must not be transferred where there is a pending breach for failure to comply with a court order. A case where breach proceedings are being, or will be, taken must not be transferred until that process has been concluded.

#### **Data recording where established family unit moving**

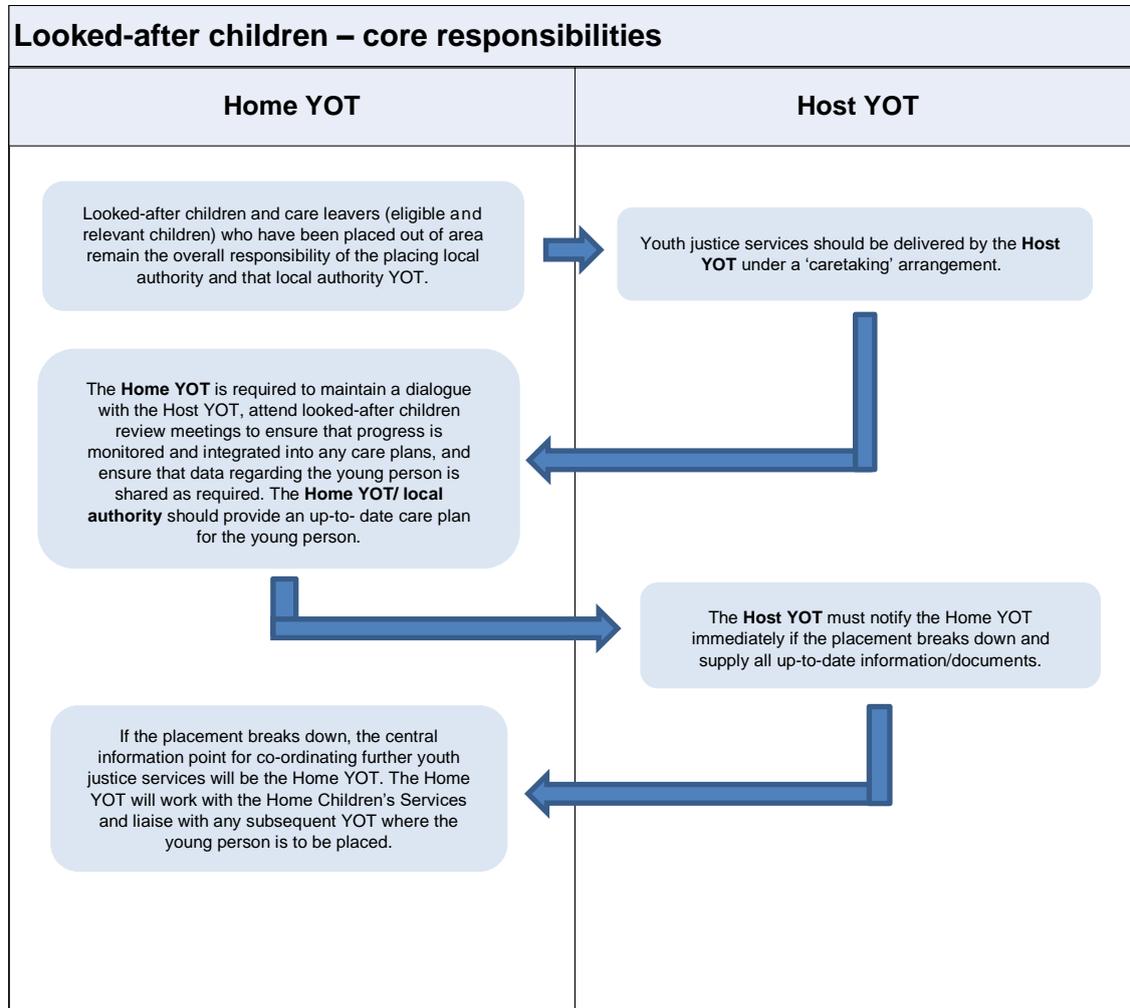
- 4.70 The Originating and Receiving YOTs should agree a date which the originating YOT must record as the 'Transfer out date', and the receiving YOT as the 'Transfer in date', in line with the *YOT Data Recording Guidance*. This may be the formal date of transfer, or an earlier date from which, for practical purposes, the child or young person has transferred pending formalisation of the transfer. All recording and responsibility must be transferred to the Receiving YOT from this agreed date.
- 4.71 The Receiving YOT must also use the 'Originating Young Person ID' field on their case management system to record the YOT area where the child or young person originates from, in line with *YOT Data Recording Guidance*.

## Looked-after children

- 4.72 Looked-after children, care leavers (eligible and relevant) remain the responsibility of the placing local authority, as corporate parents. The responsible local authority YOT (Home YOT) retains overall case management responsibility to ensure that youth justice processes are centrally coordinated during the time that the child or young person is in care.
- 4.73 The quality of youth justice services should be maintained irrespective of whether a child or young person is in receipt of caretaking or Home YOT provision.
- 4.74 It is essential that excellent communication strategies are in place so the particular needs of looked-after children who are placed outside of their local area are taken into consideration and inform effective assessment and planning, utilising AssetPlus, to meet any particular risks or safeguarding concerns.
- 4.75 Cases involving looked-after children shall be subject to the same procedures as outlined in 4.59 to 4.62 with the exception that overall case responsibility cannot be transferred to the Host YOT.
- 4.76 There may be occasions where a looked-after child has been residing in a Host YOT area prior to any involvement in criminal or anti-social behavior. In such cases, the Host YOT should liaise with the local authority children's services department to ensure any assessments and plans are aligned with child care planning processes and are referenced in an appropriate AssetPlus Stage. The Host YOT should contact the Home YOT to agree responsibilities and data-sharing information.
- 4.77 The Home YOT should ensure local arrangements are in place with their children's services department to notify them when a child or young person becomes involved in criminal or anti-social behavior.

## Looked-after children – core responsibilities

4.78 For looked-after children who are placed out of borough/area, the following responsibilities apply.



- 4.79 The above responsibilities only apply during the supervision period. If a child or young person offends after the conclusion of the supervisory period, the responsibility for coordinating further youth justice services is placed back to the local authority with corporate parenting responsibility (the Home YOT).
- 4.80 The day-to-day responsibilities of the Host YOT should be defined through discussions with the Home YOT (as outlined below in 4.82) In reaching agreements as to the specific functions they will perform in respect of a case, the YOTs involved should consider what is best for the child or young person and adopt a common-sense approach. For example, factors such as the distance between the Home YOT and the placement should be acknowledged, as well as how long the Host YOT has been involved with the child or young person and how long they are likely to remain in their area.
- 4.81 Ultimately, decisions should reflect the best interests of the child or young person and this must always remain the priority. Agreements between Home and Host YOTs in relation to looked-after children must be recorded and regularly reviewed to ensure that they continue to be in the best interests of the child and that communication between the two YOTs is effective.
- 4.82 The division of responsibilities between the respective YOTs could, for example, resemble the following.

Host YOT	Home YOT
<ul style="list-style-type: none"> <li>• Subsequent assessments (utilising AssetPlus)</li> <li>• Updating any planning elements in AssetPlus where it is agreed they are responsible and/or the of delivery any interventions that have been agreed</li> <li>• Inform the Home YOT of any non-compliance and, where agreed, list for breach proceedings</li> <li>• Provide updates to the Home YOT, including the passing of data at agreed intervals</li> <li>• Multi-Agency Public Protection Arrangements (MAPPA) co-ordination</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-sentence reports</li> <li>• Last completed AssetPlus Stage</li> <li>• Regular contact with Host YOT and input from the young person's care plan</li> <li>• Sentence planning (utilising AssetPlus) and attendance at reviews</li> <li>• Completion of breach documents</li> <li>• Ensuring YOT activity is fully integrated into the care plan</li> </ul>

*For responsibilities in respect of enforcement see 4.96.*

### **Looked-after children and Referral Order Panels**

4.83 With regard to Referral Orders, Section 18 of the Powers of Criminal Courts (Sentencing) Act 2000 states that:

*(1) A referral order shall—*

*(a) specify the youth offending team responsible for implementing the order; [in this context implementing the Order means undertaking Host YOT responsibilities for supervising the Order requirements, including day-to-day management of the case and Referral Order Panels].*

*(2) The youth offending team specified under subsection (1)(a) above shall be the team having the function of implementing referral orders in the area in which it appears to the court that the offender resides or will reside.*

4.84 In the case that a child or young person placed out of area receives a Referral Order, the Host YOT will have responsibility for convening the Referral Order Panel, producing the Referral Order Contract Recommendation report (Panel Report) and subsequent assessments (utilising AssetPlus), in line with their responsibility for implementing the Order. The Home YOT of the responsible authority should ensure contributions are made to assessment and the sentence planning process with reference to the child or young person's care plan. This should not delay the commencement of the order. In cases where a PSR is requested at the referral order stage, please refer to section 4.51 & 4.52 re PSR responsibilities.

- 4.85 Where a child or young person moves to another area during the term of their Referral Order, the Home YOT shall be responsible for an application to court to amend the local justice area to that of the Host, as outlined in 4.57. The Host YOT is then responsible for the implementation of the order, in line with responsibilities as per 4.84 above, with input from the Home YOT as the responsible authority.
- 4.86 In cases of breach, section 4.96 should be followed below, with the addition that due to Referral Order requirements that a panel should be convened prior to the return to court. Therefore, as this is a local process the Host YOT should advise the Home borough that this process is occurring and what the recommendation to and from the panel is. The Host YOT will be responsible for completing any panel report. On confirmation that the case is returned to court the Host YOT should ensure that the Home YOT has all the required information and the Home YOT will be responsible for the completion of the breach report for court, unless other agreements have been arranged prior.
- 4.87 Pre-court panels (where required) should be convened in the Host YOT area, with the subsequent PSR prepared by the Home YOT. This retains consistency between the panel process and presentation of the proposed intervention to the court. If a child or young person is to be sentenced in the Home YOT area, the Host YOT must convene the panel, and provide information to the Home YOT to aid the preparation of the PSR or prepare the report, where agreement is reached.

### **Data recording in looked-after children's cases**

- 4.88 The Home YOT must record the child or young person as 'local' on their case management system, and the Host YOT must record the child or young person as 'other' or 'out of area'. The Home and Host YOTs should agree a date which the Home YOT must record as the 'Transfer out date', and the Host YOT as the 'Transfer in date', in line with YOT Data Recording Guidance.
- 4.89 The Host YOT must use the 'Originating Young Person ID' field on their case management system to record that the child or young person is a looked-after child and the YOT area they originate from. This will allow accurate reports in the Youth Justice Application Framework (YJAF) for offending and outcomes for looked-after children placed out of area, to aid each YOT in tracking these young people. See YOT Data Recording Guidance for full details.

### **High-risk children and young people**

- 4.90 With any high-risk children and young people, the Home YOT needs to increase communication and information-sharing to assist the Host YOT in meeting the child or young person's needs (for example, forwarding of relevant work programmes).
- 4.91 The Home YOT should provide a point of contact that can assist the Host YOT with the ongoing supervision of the child or young person.
- 4.92 If there is disagreement in the assessment of risk and safeguarding concerns the Home and Host YOT should discuss concerns. If agreement cannot be reached the escalation process outlined in the principles sections should be referred to and used where required.

- 4.93 In line with the victims' code it is critical that work with victims is considered and acted upon. There should be discussions between the Home and Host YOT about who is best placed to contact the victim and undertake any victim work. Any decisions in relation to this should be clearly communicated in writing.

### **Community Safeguarding and Public Protection Incidents**

- 4.94 The expectation is that, although one YOT will have responsibility for completing and submitting the Community Safeguarding and Public Protection Incidents (CSPPi) notification and any YOT or local agency reviews, all relevant YOTs that have information to contribute should do so as part of any locally decided review activity or within the Critical Learning Review process available through the CSPPi procedure.
- 4.95 The completion of any CSPPi notification form on YJAF will be the responsibility of the YOT that was delivering youth justice services to the child or young person at the time of the incident, for children and young people charged with a public protection offence while not on the YOT caseload, the YOT with the responsibility for the ongoing work with the child or young person will complete the CSPPi notification. In relation to the completion of any learning reviews (critical, extended or local), consideration should be given to YOT involvement and learning outcomes. All YOTs involved currently or recently in the child or young person's case should be contacted and their input sought. It is essential that there is ongoing dialogue and YOTs should refer to the CSPPi YOT standard operating procedures and seek advice from the YJB where necessary.

### **Breach**

- 4.96 As per 4.57, jurisdiction for caretaking arrangements has been amended to the court area of the Host YOT. The Host YOT must liaise with the Home YOT to agree breach action and, where it is decided upon to instigate breach proceedings, the Host YOT will be responsible for listing the case at court. The Home YOT will be responsible for any subsequent breach report. The Host YOT should ensure that they make input where relevant to the proposal and to the requirements of any new YRO to be made.

### **Release from custody**

- 4.97 Where a child or young person is moving to another area upon release from custody, there should be discussions between the Host and Home YOTs regarding licence conditions. This should adhere to the principles relating to safeguarding and public protection. If ISS is being considered as a condition of their Notice of Supervision, the Home YOT should advise the proposed Host YOT and ISS team at the earliest opportunity once the proposed location is known. This may be known at the point of sentence or at any time during the child or young person's time in custody. Both Home and Host YOT teams should be involved in the planning of the child or young person's sentence (where their new area is known at the point of sentence) and in the planning for their release, utilising AssetPlus.
- 4.98 Where a child or young person's family (established family unit) moves while the child or young person is in custody, either on sentence or remand, and the intention is that the child or young person will reside with them upon release, the same processes apply as at paragraphs 4.68.
- 4.99 Where a child or young person is moving area to reside with a different family member upon release, the placement will be subject to a three-month stability testing period, as described in paragraphs 4.63 to 4.65.

# Appendix 1: Dispute resolution

Potential disputes regarding case responsibilities should be referred in the first instance to the YOT or service managers in the respective YOT areas, who should attempt to resolve the issues directly.

Should YOT/service managers be unable to resolve the issue, the matter should be referred to the YOT management board chair or a previously agreed lead partner, such as a director of children's services.

YOT managers can refer the issue to their relevant YJB head of business area/ YJB Cymru head of oversight and support, who can offer an interpretation of the guidance if required.

From the point of initial notification of the dispute, a suggested timescale for the process is:

- YOT/service manager resolution in *two working days*
- if still unresolved, escalation through internally agreed management board governance structures in *five working days*
- if still unresolved, locally agreed processes, with bespoke timescales, should be followed, and then notified to the YJB head of business area/YJB Cymru head of oversight and support through the local partnership advisor or YJB Cymru oversight and support advisor.

During a prolonged process, youth justice services must continue to be provided by the Host YOT without prejudice to the final decision. The welfare of the child or young person must remain paramount and any risks they pose to the public addressed until the matter is finalised.

If a child or young person is in custody during a dispute resolution process, liaison and ongoing communication between the Host YOT, the secure establishment and the YCS Placement Team must take place until the matter is resolved.

In relation to Youth Detention Accommodation Orders, refer to the [Process To Determine Designated Authority Guidance](#) (Ministry of Justice and YJB).

## Appendix 2: Information-sharing checklist

Below is a list of documents which may be required to enable effective case transfer, depending on the child or young person's circumstances.

Yes	No	N/A	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Last completed AssetPlus Stage
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Current care plan (for looked-after children)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Referral Order contract
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The most recent PSR and other relevant reports
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Court order (where appropriate)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Previous offending profile/previous convictions
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Notification of outstanding matters – status, dates, crime references etc.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Record of contacts with child or young person
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Enforcement information in relation to the current sentence (e.g. failures to attend, warning letters) (where appropriate)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Details of work carried out from the case file as part of the current or any other previous relevant intervention
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	CPS documents in relation to offence for which current order was made (where available)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Information on mental health, education and training, outstanding referrals, involvement of other professional organisations child protection/care of younger siblings etc.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Other relevant/specific information regarding high-risk cases including MAPPA, Risk Management Panels
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Deter Young Offender (DYO) status and/or integrated offender management information
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Gang intelligence
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Prevention of violent extremism information
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Indication of whether the child or young person is in the Home YOT re-offending cohort
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Home YOT ID number
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Civil actions (ASBO/gang injunctions)

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