



Ministry of
JUSTICE



Youth Justice Board
Bwrdd Cyfiawnder Ieuencid

PROCESS FOR DETERMINING THE “DESIGNATED AUTHORITY”

1. When remanding a child (a person under 18) to local authority accommodation or to youth detention accommodation the Court must designate a local authority for the child.
2. This requirement is set out in the Legal Aid, Sentencing and Punishment of Offenders Act 2012. Sections 94 to 107 of that Act make provision generally for remands of children otherwise than on bail, and have been in force since 3 December 2012. The provisions on designation of local authorities have been amended in the Crime and Courts Bill to allow a court to make a replacement designation in the case of a remand to youth detention accommodation. That means that a court has power to replace the authority which it initially designated once it becomes clear that another authority should, in fact, be responsible for the child.
3. The court will make a designation based on the following requirements:
 - If the child/young person is already looked after then the court must designate the authority who is looking after the child
 - If not previously looked after the designated authority will be the authority in whose area:
 - the child is habitually resident
 - the alleged offence was committed.
 - In cases where the child's habitual residence and the location of the offence fall in different local authority areas, the court is to designate the authority of habitual residence unless it considers it inappropriate to do so (in which case it is to designate the authority where the offence was committed).
 - Where the authority of habitual residence cannot be identified, the court is to designate the authority where the offence was committed.
 - Where the authority of habitual residence cannot be identified and the offence was committed outside England and Wales, the court is to designate an appropriate authority.
4. The designated authority is responsible for the case management of the remand status (including management of the looked after children (LAC) status) and for accommodation costs arising from placement.

Process to be undertaken when any authority, other than that in whose area the court is sitting, might be designated

5. Where there is a possibility that a child will be remanded to local authority accommodation (LAA) or to youth detention accommodation (YDA) and there are grounds for believing an authority other than the one in whose area the court is sitting should be designated, the youth offending team (YOT) servicing the court (the host YOT) should contact the other YOT/authority as soon as possible with a view to agreeing which authority should become designated, based upon the considerations set out above. The contact should be with a senior officer of the local authority/YOT (e.g. the YOT Manager or equivalent, or a person nominated in his/her absence). All YOTs/local authorities should ensure that it is widely understood locally who is authorised to make such agreement on behalf of the authority.
6. Where it is agreed that an authority other than the host authority should be designated, then the host YOT should inform the court of the agreement. Where no agreement has been reached with any other YOT/authority in relation to designation, then the YJB recommends that the host YOT agree that it should be designated. (It should be noted that the Crime and Courts Bill amended legislation to allow a court to make a replacement

designation, which has the effect that the new authority becomes liable for the costs of remand as if it had always been designated.)

7. It should be noted, however, that the final decision as to which authority is designated lies with the court.
8. If the court designates an authority other than that in whose area it is sitting, then the host YOT should keep a copy of the warrant (to help inform any future Court appearance) and send copies to the designated authority.
9. In the case of remand to LAA the host YOT should ensure that arrangements are made for an appropriate person to remain with the child while waiting for the child to be collected on behalf of the designated authority.
10. Where the court remands the child to YDA, there will need to be contact with the YJB's Placements Service. Where an authority other than the host authority is designated, the YJB would expect there to be close liaison between the host YOT and the YOT for the designated authority. This will help to ensure all the necessary information is forwarded to the YJB Placements Service on the Placement Information Form (PIF) including all EYE documents, particularly any information in relation to the child/young person's vulnerability.

Role of the Host YOT Court Officer

11. The role of the YOT Officer present in court when the court is considering a remand to LAA or YDA is crucial.
12. The YOT Officer servicing the court should make all relevant enquiries to ascertain the facts of the case, in particular:
 - where the child has been living (habitually or otherwise)
 - where those with parental responsibility live
 - where the alleged offences were committed
 - whether the child has had previous involvement with YOTs.

This information is vital to assist the court in making its designation decision. Gathering this information will naturally involve communication with the YOT for any other authority which the court is likely to consider designating.

13. If, having gathered such information, it appears that there is a case for a different authority being designated, then contact should be made with the YOT Manager or other delegated senior officer within that YOT/local authority.
14. The host YOT Court Officer may need to ask the court to stand the case down while these enquiries and contacts are made.
15. ***The host YOT Officer should not inform the court that another local authority should be designated without first having contacted and gained the agreement of an appropriate senior officer within that YOT or local authority.***
16. The host YOT should present the details of the case to the appropriate senior officer in the other YOT/authority and all efforts should be made by both parties to reach agreement as to the most appropriate decision, in the best interests of the child. In many cases it will be clear to both parties that the facts of the case make one authority more appropriate to be the designated authority. However, this will not always be the case.

17. Where another YOT/authority does not accept that it should become the designated" authority, then the host YOT Court Officer may inform the Court of this (as a warrant must have a designated authority, this is likely to default to the Host YOT. Contact should be made with the YJB Placements Section on the basis that the Host authority is the designated authority and all arrangements for transport, for sending documentation to the identified establishment, for supervising the young person pending the arrival of the transport and for ongoing case responsibility should be conducted on the same basis.
18. The Crime and Courts Bill contains provisions allowing for retrospective designation of a local authority for the purposes of the recovery of costs of youth secure remand. This amendment in legislation, enables Courts to amend warrants retrospectively, thus enabling any authority which is subsequently "designated" to be financially responsible from the commencement of the remand to YDA.

Dispute Advice Process

19. In the event that, at the point of the remand to LAA or YDA there is insufficient time to gain the designation agreement of an appropriately senior officer, or information relating to the designation, such as address, subsequently emerges/ provides conflicting views, the court should be informed at the next remand hearing. The Court, will then decide, based upon these representations, whether the designated authority can be amended on the warrant.
20. In cases where an authority is finding it difficult to balance representations to the court based upon the designated authority criteria, the advice is, in the first instance, to seek guidance from senior managers and/or appointed legal teams.
21. Should the YJB be asked to take a view, the authority posing the dispute should make contact with their allocated Head of Business Area. He or she may ask a Local Performance Adviser within the business area to look into the facts of the case and advise. If the authorities are located in different YJB Business Areas then a YJB Head of Business for an area not covering either authority area may be asked to give a view.
22. In either case, the Head of Business Area will assist the related YOT leads to review the facts of the case based upon a judgement as to which area the child/young person has the stronger ties to in terms of:
 - His/her current, past and likely future residence
 - Parents' (and those with parental responsibility) current, past and likely future residence
 - How well known s/he is to either YOT (if at all), and (where issues of normal residence are unknown or there is no normal place of residence)
 - Where the majority of the alleged offences occurred.
23. This advice will not be legally confirmed but it may help the YOT to reach a decision via local governance and legal arrangements. Any final decisions on the designated authority will therefore remain with the court.