



Ministry
of Justice

Youth Remand Concordat

Working together to improve the experiences and outcomes of children on remand

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Contact the Ministry of Justice: remandreview@justice.gov.uk

National Signatories of the Youth Remand Concordat



The national signatories of this concordat endorse its aims and principles, and we ask frontline partners to do the same. This includes all Local Authorities, Police Forces and Local Criminal Justice Boards.

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1. Introduction

Remand to custody should always be a last resort for children. The impact that an experience of custody can have on a child, disrupting their education, accommodation arrangements, family relationships and other community support, can be felt for years afterwards. While the number of children sentenced to custody has fallen steadily in the past decade, the number of children on custodial remand has decreased more gradually, meaning that the proportion of the custodial population on remand has increased (43% on average in the year to March 2024).

In 2023-24, 62% of children remanded to custody did not receive a custodial outcome (37% received a community sentence, the others received other non-custodial sentences, or were acquitted, dismissed, not proceeded against, etc). The trial outcome is, of course, an entirely independent assessment of the evidence, and the sentencing decision weighs up a lot of factors, many of which will have been unknown at the time a court had to make a bail/remand decision. However, as discussed in the [Review of Custodial Remand for Children](#) (2022), practitioners in Youth Offending Teams, local authorities and the judiciary have expressed concerns around delays in the creation of bail packages or sourcing suitable local authority accommodation (LAA), sometimes resulting in a child being unnecessarily remanded into custody. Of particular concern are the short remands to custody of 7 days or less, to 'buy time' for suitable accommodation to be found.

There are signs that community remands are starting to be used more often (in the year to March 2023 there were more community remands, including Bail ISS and bail supervision and support, than remands to youth detention for the first time, and in the year to March 2024 there were more community remands than custodial as well), but to sustain this change we need effective joint working and more robust community alternatives to custody which allow children to be remanded safely in the community, without putting the public at risk.

There is still much progress to be made in reducing racial disparity in remand outcomes. 2020 research¹ showed there were more restrictive remand outcomes for Black and Mixed Ethnicity children (even after accounting for other factors). The proportion of Black children on remand in custody was 27% in 2023-24 (a decrease from the previous year but still an overrepresentation). We must collectively scrutinise every point of the bail/remand process to identify whether it is contributing to disproportionality in the system and be prepared to challenge practice.

¹ Youth Justice Board 'Ethnic disproportionality in remand and sentencing in the youth justice system' 2020

2. Purpose and Aims

Purpose

This concordat is intended as a shared commitment by partners to follow a joint approach throughout the remand process, working together in the best interest of the child. The concordat is not seeking to influence the independent judicial decision-making process but to ensure that partners are working together to provide alternatives to custodial remands where appropriate.

The concordat brings together the learning from the [Review of Custodial Remand for Children \(2022\)](#) and the [Joint Inspection of Work with Children Subject to Remand in Youth Detention Accommodation \(2023\)](#), both of which highlighted the importance of partnership working between relevant agencies to support children in the remand process.

The legal framework for youth remand is clear that custody should always be a last resort. The concordat will support key agencies by summarising their responsibilities in a clear, accessible way to prevent ambiguity. The concordat does not create new statutory guidance or duties but instead brings guidance from existing documents together.

Through outlining a series of clear principles, providing guidance and sharing examples of good practice, the concordat will help frontline staff to understand where collaboration with other agencies should take place. The logistics and ways of working can only be worked out at a local level. The concordat should be a starting point for local, multi-agency discussions that complement national efforts to reduce unnecessary experiences of custody and support better partnership decision-making.

Aims

The primary aim of the concordat is to support all partners in the remand process to understand their statutory responsibilities and good practice, to work effectively together to support children going through the remand process. The wider aims are:

- To improve the experiences of remanded children;
- To prevent any “unnecessary” use of custodial remand;²
- To reduce disparities in remand processes;³ and
- To ensure seamless service between stages/ agencies.

² YJB Standards 2019: “The term ‘unnecessary’ applies to those cases where it is possible that a child or young person could have been safely supervised in the community on bail” or RLAA.

³ assets.publishing.service.gov.uk/media/60006c03d3bf7f33bba7efb7/Ethnic_disproportionality_in_remand_and_sentencing_in_the_youth_justice_system.pdf and Youth justice statistics - GOV.UK (www.gov.uk)

3. Using the concordat

The statutory duties and guidance laid out in the concordat apply to both England and Wales unless stated otherwise within the text.⁴

For more detailed information on any of the stages of the remand process set out in the concordat please see the links in the 'further guidance' section under each step.

Throughout this concordat, 'must' and 'should' are regularly used. Please note:

- **'Must'** refers to a legal duty where something has to be carried out.
- **'Should'** refers to where there is existing guidance (non-statutory) on that responsibility and following this guidance should be taken as routine good practice.

While the concordat sets out clearly which agency or agencies are responsible for each action in the remand process, joint working is encouraged for all stages of the remand process even where an activity is not explicitly listed as your agency's responsibility.

This concordat will use the term Youth Offending Team (YOT) to refer to the multi-disciplinary teams that work with young people in the justice system, according to the statutory terms of the Crime and Disorder Act 1998. Many Local Authorities now refer to the teams as Youth Justice Services (YJS) or Youth Offending Services (YOS), and when using this document should read the term YOT as interchangeable with those names.

⁴ Whilst youth justice is centralised, Children's Social Care are devolved and therefore different provisions apply in England and Wales. Despite this, the principle of a multi-agency joint working approach with Children's Social Care applies in the same ways.

4. Principles of Effective Practice

- The support individual children are receiving in the community on bail or remand, as well as in and after remand to custody, is in line with relevant legislation and meets the needs of children, through a 'Child First' approach, treating the child as a child⁵.
- Partners are confident that processes are in place to ensure that custodial remand is used only when necessary and only as a last resort.
- Partners are confident that, where appropriate, alternatives to a remand in custody, such as community remands or bail, have been explored and presented to the court.
- The remand process does not contribute to disproportionality within the system, notably, it does not contribute to racial disparity in both the numbers of children subject to custodial remand and the care of those who are remanded.
- Performance and practice are monitored at a local level, taking appropriate action to tackle emerging issues and implement lessons learned for continuous improvement.

Effective Local monitoring

YOT Management Boards⁶ or other local criminal justice structures will want to confirm which remand data they see and when.

The guidance for annual Youth Justice Plans⁷ states that information on children subject to remand into Local Authority Accommodation or youth detention should be included, as well as any strategic plans to reduce use of remand.

Local partnerships will want to monitor remand trends (or perhaps dip sample cases where numbers are very low) to regularly review practice and provide oversight, including reviewing the needs of diverse groups.

⁵ What is Child First? - Youth Justice Resource Hub

⁶ It is recognised that in some areas the YOT Management Board may now have been merged with other local strategic boards and/or may be known by a different name, for example Youth Justice Partnership Board. For the purposes of this document, the term 'YOT Management Board' can be taken to apply to all such variations.

⁷ Youth justice plans: guidance for youth justice services - GOV.UK

Questions around process for YOT Management Boards to consider:

Police remand:

- Are the YOT and police meeting regularly to scrutinise recent police decisions to detain children after arrest and not release on bail, and identify opportunities to address this?
- Are partners signed up to the HO Concordat on Children in Custody in relation to police remands in police cells?
- Are appropriate protocols in place between liaison and diversion teams, police, Crown Prosecution Service (CPS), emergency duty teams and YOT to identify children at risk of remand earlier, to improve efficiency and effectiveness of partnership working?

Court process and options for bail/Remand to Local Authority Accommodation:

- Is there a clear YOT court sharing process for out of area remands and where Local Authorities share a Youth Court or Crown Court?
- Do YOT and children's social care have pre-agreed information-sharing procedures to present robust alternatives to custody in courts in a timely manner and are these discussed with defence lawyers informing recommendations made to the court?
- Do the YOT and children's social care work with defence lawyers and other criminal justice partners including the Police and CPS to keep each custodial remand under review and re-consider bail? Is there a shared understanding of the approach to breaches of bail or remand to Local Authority conditions?
- Is there a plan to support alternatives to custodial remands (such as Bail ISS or Remand to Local Accommodation) in your annual Youth Justice Plan that facilitates the prevention of children being remanded to youth detention accommodation where possible? Are the local Judiciary fully informed on what support these alternatives can provide?

Learnings from custodial remand cases

- Are remand to detention cases for the area regularly being reviewed to identify where children could possibly have been bailed or remanded to the community instead? Are trends and anomalies being identified from these cases including taking into account any disparities in outcomes? Are appropriate actions being taken to tackle emerging issues? And are lessons being learned, including addressing any gaps in specialist community provision?

Checklist of information you could review:

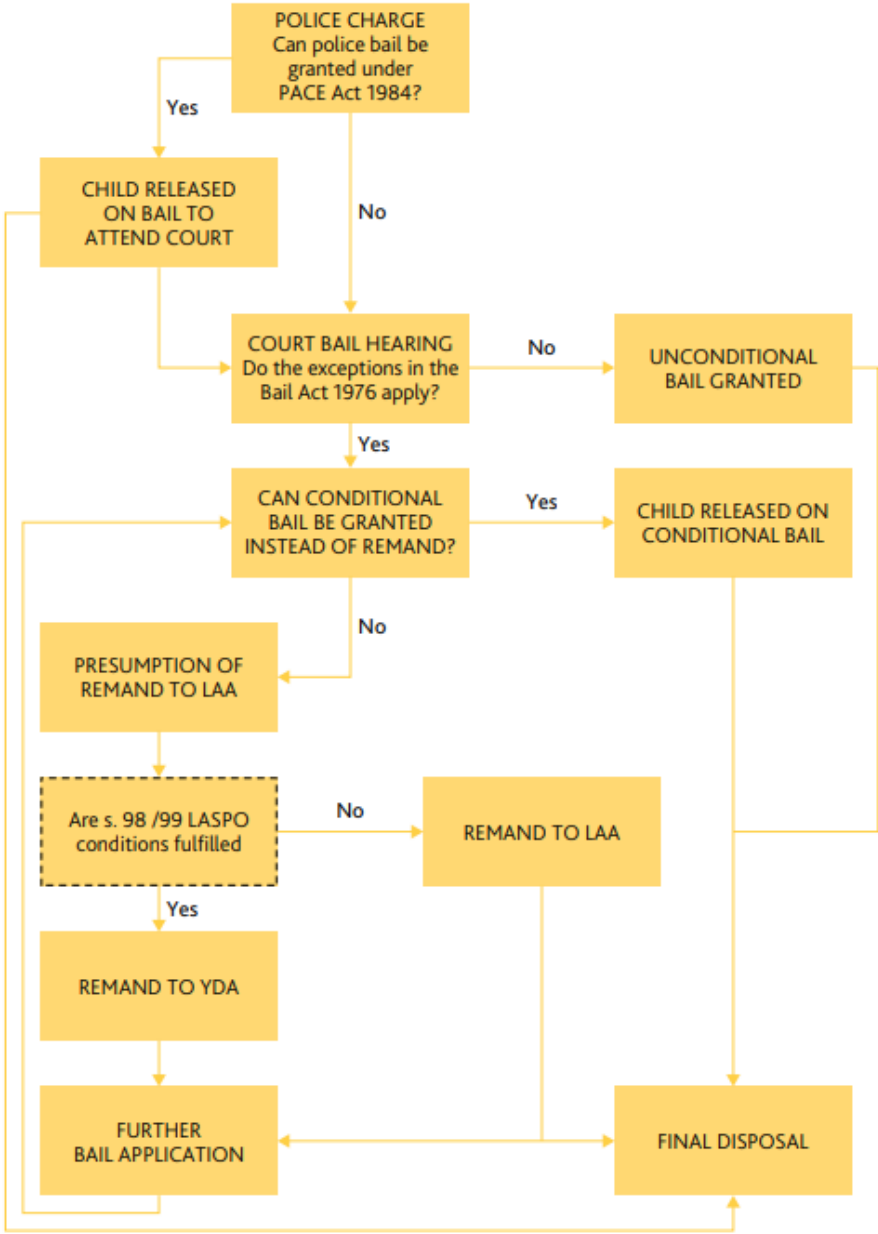
- The number of children who are detained by the police overnight, whether requests were made to identify LA accommodation, and how many of those children were then remanded by the courts.
- The number of children on custodial remand and the length of remands, including a focus on disparities of all kinds (care status, ethnicity, communication difficulties and SEND etc) against those receiving bail.
- The age and educational status of children when they are remanded.
- Reasons (written and oral) given in court for the custodial remand with a particular interest in any remands for the reasons of insufficient accommodation or community provision.
- The gravity matrix score of the offences for which the young people were remanded.
- Outcomes for those on custodial remand i.e. how many get a community sentence, were acquitted etc, identifying any trends related to children's protected characteristics.
- How the remand funding from Ministry of Justice has been spent and whether it has been invested in community remand provision.

CASE STUDY: Remand Data Audit in Yorkshire

Through the South and West Yorkshire Resettlement Consortium, the Local Criminal Justice Boards in South Yorkshire and West Yorkshire have conducted annual remand audits for the last two years. Data was collected from police and Youth Offending Teams across both regions, and analysis completed by the respective LCJBs. Data captured ranged from age and ethnicity of remanded children to their education status, accommodation and case outcomes. This enabled a system-wide analysis of remand cases, and a useful comparison between the two areas, which enabled staff to identify shared challenges and opportunities to make progress together. This analysis will be used by the LCJBs, Youth Justice Management Boards and other youth-justice-related groups including the Resettlement Consortium. Going forward, the intention would be for the remand audits to be undertaken annually in order to track trends, monitor the impact of their work to better support remanded children, and reduce the number of remanded children, where possible.

5. Step by step remand stages

The flowchart below provides an overview of the end-to-end bail/remand process.



Source: [Review of custodial remand for children](#)

6. At the police station

Guidance and duties

The police should contact the YOT and children's social care at the earliest point, such as at the time of arrest (or even before, if possible). If the YOT and children's social care duty teams are notified of the child's presence in custody this will enable earlier information exchange which will help to inform subsequent bail, remand and accommodation decisions.

The YOT (and where applicable children's social care) should be engaged as early as possible to assist in the decision whether to grant bail, as they may be able to provide information about the child such as their address or any previous offending history, and advice on any conditions that might enable bail. The police custody officer should also consult as soon as possible with the child's lawyer, as well as their carer and appropriate adult (if different), before reaching a final decision. This can help to ensure the child's needs, such as neurodivergence, are met. If there are concerns regarding the child's mental health, the local Liaison and Diversion team can be contacted, and an Approved Mental Health Professional (AMHP) should attend the custody suite to assess the child.

After a child has been charged, there is a presumption that they will be granted bail, except where the child is charged with certain serious offences⁸. The decision to refuse bail should be a last resort. If bail is refused the police custody officer **must** contact the LA to source accommodation⁹. The YOT should assist with finding appropriate accommodation for the child. Appropriate adults should help to ensure that transfers are secured as soon as practicable. It is in the best interest of the child to find accommodation quickly, with a clear record to be made of the steps taken that show all possible arrangements were considered, and ensure children are not kept overnight in police custody when it is not necessary or proportionate. For a request to be made for secure accommodation, the child must be 12 years or older and the custody officer **must** believe that the child poses a risk of serious harm to the public between being charged and appearing at court and that risk cannot be adequately managed by staff in non-secure accommodation.

If the YOT/children's social care do not think the criteria for refusing bail has been met, they should make representations to the custody officer directly about this decision and they should inform the child's lawyer.

One of the circumstances where PACE allows the police to retain a child in police custody is where a transfer is 'impracticable'. 'Impracticable' should be taken to mean that exceptional circumstances render movement of the child impossible or that the child is due at court in such a short space of time that transfer would deprive them of rest or cause them to miss a court appearance. The other circumstance is when there is no secure

⁸ s25(2) Criminal Justice and Public Order Act 1994

⁹ Section 38 PACE 1984

accommodation available, and the custody officer believes that any other Local Authority accommodation would be inadequate to protect the public from serious harm.

Children's social care and the YOT **must** assist, at the earliest opportunity, with finding appropriate accommodation for the child whether that is in local authority accommodation, foster home or with a member of the child's family¹⁰.

For further detail on the transfers to Local Authority Accommodation process and accommodation requests please see the [Concordat on Children in Custody \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Referring a child if there are signs of exploitation

When a child is arrested and charged there may be signs of possible child criminal exploitation identified. Referrals to the National Referral Mechanism (NRM) can be made by 'first responders' which includes YOTs, police and children's social care (but not criminal lawyers). A 'Competent Authority' will make a decision whether, on the balance of probability, 'it is more likely than not' that the child is a victim of human trafficking or modern slavery. If the decision by the Authority is positive, the Crown Prosecution Service (CPS) will consider whether to continue the prosecution based on a number of factors, including the seriousness of the alleged offence and public interest.

Who is responsible?

The police are responsible for:

- Deciding whether the child can be bailed, drawing on input from YOT/Children Services and defence lawyer.
- Securing an appropriate adult for the child whilst they are at the police station.
- Contacting children's social care to find suitable accommodation if bail is not granted.
- Making a recommendation on the type of accommodation (secure / non-secure) the child needs, in discussion with the appropriate adult, children's social care, and the YOT.
- Completing the PACE 38(7) certificate if the child is not transferred to LAA.

The Local Authority is responsible for:

- Ensuring appropriate adults are available to safeguard the interests of children detain or questioned by the police.¹¹

The YOT is responsible for:

- Providing information to the custody officer on obtaining a suitable bail address, appropriate bail conditions and/or offering a suitable bail supervision or support package.

¹⁰ Section 21 Children Act 1989

¹¹ Crime and Disorder Act 1998 s. 38 (4a)

The Children's Social Care team are responsible for:

- Finding suitable accommodation for the child and ensuring the minimum criteria for section 25 of the Children's Act 1989 are met before the child is placed in secure accommodation.
- Transferring the child to their court appearance for their hearing once they have been placed in LAA.

The defence lawyer is responsible for:

- Proving legal advice that best meets the child's individual needs.
- Ensuring custody officers are meeting the legal tests threshold if they decide to refuse bail.

The appropriate adult is responsible for:

- Supporting the child whilst they are at the police station including ensuring fair treatment and the safeguarding of their welfare.¹²

Further guidance

- Youth Justice Legal Centre guide: Court Bail and Remand
- Concordat on Children in Custody (publishing.service.gov.uk)
- Police and Criminal Evidence Act 1984 (legislation.gov.uk)
- Case management guidance - How to manage bail and remands - Guidance - GOV.UK (www.gov.uk)
- The Howard League | Representing looked-after children at the police station
- Home - National Appropriate Adult Network
- Welsh guide on police bail/remand: transfer-of-children-and-young-people-by-the-police-and-local-authorities.pdf (gov.wales)
- Children in local authority care: code of practice | GOV.WALES
- Children and young persons | College of Policing
- Lammy Review - GOV.UK (www.gov.uk)
- PACE Code C 2019 (accessible) - GOV.UK
- Modern Slavery: statutory guidance for England and Wales (under s49 of the Modern Slavery Act 2015) and non-statutory guidance for Scotland and Northern Ireland (accessible version) - GOV.UK
- Report modern slavery as a first responder - GOV.UK

¹² The appropriate adult role is set out in greater detail here: Concordat on Children in Custody (publishing.service.gov.uk)

7. Preparing for the bail/remand hearing

Guidance and duties

The first bail/remand hearing is the child's first appearance in court following their charge by the police. As soon as the court date and time is known, the YOT should speak to the child and their carer(s) to answer any questions and ensure the child knows when and where the court hearing is¹³¹⁴. Children are likely to feel anxious and apprehensive about appearing at court (whether it is their first time in court or not).

There should be a clear joint working agreement between YOTs that share a Youth Court and agreed processes to manage out of area remands, including getting to know key duty lawyers¹⁵. Whenever possible there should be a youth magistrate and youth specialist lawyers available at weekends and on days when there is no youth court sitting. If it is unavoidable that the child will appear before an adult court, then only people necessary for the case should be in the courtroom, and a reporting restriction should be made under Section 45 of the Youth Justice and Criminal Evidence Act 1999. The court should only deal with the question of bail and should adjourn to the next available Youth Court date.

If the child arrives at court directly from police custody, the child's lawyer can make an immediate application for the child to be released on bail. The YOT is responsible for preparing a suitable bail package and discussing this with the child's lawyer. The court has an opportunity to be proactive and can always ask the reason for police custody and ask if there will be a bail application at the hearing.

The default position is that children appear before a youth court, unless they are charged jointly with an adult. Youth courts are less formal than adult courts, designed to be less intimidating to children. Children can be given the opportunity to ask questions in court to help ensure they understand what is happening. Consideration should be given to any potential speech, language and communication difficulties the child may have (there is a high prevalence of additional speech and language needs amongst children interacting with the criminal justice system). If there are concerns about whether the child is able to effectively participate in proceedings, this should be raised at the first appearance at youth court and an application made by the child's lawyer for modifications or special measures, such as the appointment of a communication specialist intermediary¹⁶.

¹³ Case management guidance - How to work in court - Guidance - GOV.UK (www.gov.uk)

¹⁴ The Sentencing Councils guidelines for Sentencing Children and Young People para 2.11 – 2.14 ([Sentencing Children and Young People – Sentencing \(sentencingcouncil.org.uk\)](http://sentencingcouncil.org.uk))

The proper venue for the trial of any child or young person is normally the Youth Court. Subject to statutory restrictions, that remains the case where a child or young person is jointly charged with an adult. (The court must consider its power to remit the youth defendant to the youth court for trial under the SCA 1981, s.46ZA.)

¹⁵ Case management guidance - Case responsibility - Guidance - GOV.UK (www.gov.uk)

¹⁶ For further guidance on how to access an intermediary please see HMCTS intermediary services - GOV.UK

It is for the court to determine whether a child is fit to plead, informed where appropriate by expert views of healthcare practitioners (see further guidance below on participation and fitness to plead).

The court will decide whether the child can appear in the well of the court, but the Youth Court Bench Book (p. 90) advises the secure dock should only be used for those charged with the most serious offences and should not be the rule, even for children who have arrived at the court directly from police custody. If the child does appear in the secure dock the reasons for this decision should be given to the child in court. The child's YOT and parent or carer, or children's social care professional (if the child is looked after) should support the child sitting in the well of the court.

Who is responsible?

The police are responsible for:

- Transporting the child to court if they have come from police custody.
- Ensuring the court has the certificate of impracticability of transfer if the child remained in police custody.
- Informing the child and their parents/carers of the time, date and location of the bail/remand hearing.

The YOT is responsible for:

- Ensuring the child and their parent/carer understands their rights to legal representation, legal aid and a duty solicitor.
- Supporting the child so that they can express themselves clearly in court, for example by preparing them beforehand that they may be asked about past events and future plans.
- Putting together a bail package for the child that is based on a robust risk assessment, including any relevant information regarding, e.g. the child's family, any mental health assessments or support, any history of engagement with the youth justice service or education.
- Having joint working arrangements with other YOTs where they share a Youth Court and to manage out of area remands.
- Having a court duty service available on all occasions when the court is sitting, including weekends and Bank Holidays.
- Producing all reports requested by the courts to their timeframe.
- Making every effort to ensure parents, guardians or carers attend court with their children. If that is not possible, working closely with solicitors to obtain a statement from parents/carers to explain absence and ensure that their voice is included.

Children's Social Care are responsible for:

- Transporting the child to the court if they have come from LAA.
- Attending the bail/remand hearing if the child is already 'Looked After' (meaning they have been in the care of their local authority for more than 24 hours).

The defence lawyer is responsible for:

- Making bail applications to the court.
- Ensuring proceedings are conducted fairly and in recognition of the different protections and procedures for children compared to adults.
- Applying and advocating for the child to be out of the secure dock during the bail/remand hearing, including if the child arrived at the court from police custody.

The court are responsible for:

- Ensuring the court is less formal than an adult court and the language used is suitable to their age and understanding.
- Deciding whether the child should be placed in the secure dock or in the well of the court and explaining this decision to the child (children should normally not be produced in the secure dock).
- Ensuring the child can have an intermediary if needed to help with speech and language understanding.
- Ensuring that an appropriate adult, guardian or social worker is present if the child is under 18.

The CPS are responsible for:

- Alerting the defence lawyer and YOT to any intention to oppose bail as early as possible and disclosing all relevant evidence in good time.
- Making applications for a remand to youth detention accommodation, only when all the alternatives have been considered and it is decided that they would be inadequate to protect the public from serious harm or to prevent the commission of further offences.¹⁷

Further guidance

- Youth Court Bench Book (January 2024) - Courts and Tribunals Judiciary
- Court Bail and Remand (yjlc.uk)
- Effective participation and fitness to plead
- Case management guidance - How to manage bail and remands - Guidance - GOV.UK (www.gov.uk)
- PACE Code C 2019 (accessible) - GOV.UK
- Youth-Defendants-in-the-Crown-Court-October-2023-08.11.23.pdf
- Children as suspects and defendants | The Crown Prosecution Service
- Equal Treatment Bench Book

¹⁷ CPS Children as suspects and defendant, Legal Guidance, Youth crime

8. At the bail/remand hearing: Bail

Guidance and duties

There is always a presumption of bail unless there are certain exemptions¹⁸. The court can grant either unconditional or conditional bail. The YOT **must** provide support for children whether on remand or bail¹⁹.

The child's lawyer will present any bail application to the court. The YOT or LA children's social care (on request from the child's lawyer or YOT) should provide as much information as they can about the child's background, circumstances and welfare to the lawyer in order for a suitable bail package to be put together. The YOT should begin to identify key information that will be useful for the child's bail package at the earliest possible opportunity. This can be from the point of charge at the police station if the child is likely to be denied bail at court. There should be a clear route of engagement with the Crown Prosecution Service (CPS).

Both early and collaborative engagement with other agencies is key in creating a robust bail package. This is especially the case where the child is unknown to the YOT, and collaboration may be needed with wider networks if they have not had any previous involvement with the justice system. YOTs should involve the child's parent or carer in the development of the proposed bail package when appropriate.

The court can refuse bail for children for their own welfare or in their own interest²⁰. This should be given consideration in partnership. If there are concerns about mental health, the child's lawyer and YOT can discuss with the court a mental health assessment for the child or for the child to be bailed with an appropriate package of mental health support. The court **must** be satisfied that a suitable bail package is in place to alleviate any concerns²¹.

Conditional bail

The YOT should consider whether an application for bail supervision and support should be made as a condition to bail, to allay any safety and risk concerns. YOTs **must** provide bail supervision and support and identify how a child can be managed in the community as an alternative to remand into custody²². YOTs can only offer bail support where it is assessed that they can manage this risk appropriately in the community^{23 24}.

¹⁸ Section 4 Bail Act 1976

¹⁹ Section 38 Crime and Disorder Act 1998

²⁰ Schedule 1, Part 1, Exceptions to right to bail, para 3, Bail Act 1976

²¹ Section 3(6), Bail Act 1976 – concerns in this case relate to if the child will surrender to custody, commits an offence while on bail or interferes with witnesses for example.

²² Crime and Disorder Act 1998

²³ R (B) v Brent Youth Court [2010] EWHC 1893 (Admin); s 91(4A) LASPO

²⁴ Court Bail and Remand (yjlc.uk)

In cases of conditional bail, the court should explain the condition to the child clearly in appropriate language and should check their understanding. The YOT should also check the child's understanding of their conditions after court.

The child's lawyer is responsible for making the application to the court to make any changes including adding, amending, or removing any conditions of the bail (after agreeing this with the YOT).

Bail Intensive Supervision & Support (Bail ISS)

The YOT **must** have arrangements in place to offer bail ISS. If arrangements were not made before the court session, the YOT can apply for the case to be pushed back.

Bail ISS proposals should be tailored to meet the individual needs of children, and applications to the court can be made at a later point to change the conditions of bail. It is considered an alternative to custodial remand, given its intensity and restrictiveness. The YOT should ensure that there are safeguarding checks before bail ISS is imposed.

If the court imposes a bail ISS package, the home YOT is responsible for the case management of that child and the child should have an allocated YOT worker²⁵. The YOT worker should ensure the child's parent or carer is contacted as soon as practically possible to understand the requirements of the package. This contact with the child's family should include a home visit.

The YOT should support the child to:

- Determine who else they need to be in contact with as part of their bail supervision and support package where they need to report to (or how they will be contacted).
- Understand that if they do not engage with the YOT, they could be returned to court and be remanded in custody.

If a child is fitted with an electronic tag, the case manager responsible for the child **must** contact the provider and provide their contact details so that, in the event of a breach, the YOT can be notified²⁶. The electronic monitoring provider will explain clearly how the tag works, including the responsibility for keeping the tag charged.

Refusal of bail

If bail is initially refused, at every subsequent hearing the court should reconsider if the child can be granted bail. The child's lawyer can engage with the YOT and children's social care to make a second application for bail, and put forward any argument, even those previously argued, to be considered afresh.

Further bail applications should be based on new considerations such as if the circumstances of the child have changed (e.g. a suitable address has been identified);

²⁵ Section 38(4) of the Crime and Disorder Act 1998

²⁶ Bail Act 1976

however, the passage of time itself (including time spent in custody) may be considered as a change of circumstances.

If a child has been remanded to custody, there may be relevant information, for example, regarding any assessments of their needs that have taken place, that can be shared by the staff in custody with the child's YOT case worker, as it may support further bail applications.

Breach of bail

Breach of bail is not a separate criminal offence, but the police can arrest the child if they believe they have breached their bail conditions. The child **must** appear before the court within 24 hours²⁷. As soon as the court date and time is known, the YOT should speak to the child and their carer(s) to answer any questions.

The court **must** determine if a breach took place and decide whether to amend the child's bail conditions²⁸. The child's lawyer and YOT should, where appropriate, present evidence to the court of compliance and the likelihood that a community option presents a risk to the community. The court should provide a youth qualified magistrate to hear a case or at the very least a youth experienced legal adviser should be consulted.

If the child breaches conditions related to their support package with the YOT, it is a matter for the YOT as to whether they bring the matter before court, taking into account public protection and potential for onward compliance. Any variance in decision-making needs to be cleared through a YJ Manager.

Who is responsible?

The YOT is responsible for:

- Supporting the child to be safely managed in the community whilst on bail.
- Putting together a bail package and working with relevant agencies.
- The case management of bail ISS provisions.
- Informing the child's family of any bail decisions and requirements set by the court.
- Working with the child and their family to understand and follow any conditions of their bail.
- Informing the child and their parents/ carers of the time, date and location of any breach of bail hearing.
- Attending breach of bail hearings and supporting the child to remain on bail where the risk can be managed appropriately.
- Recording court outcomes.

Children's social care are responsible for:

- Safeguarding responsibilities towards the child.
- Working with YOTs to help develop bail package proposals.

²⁷ Section 7 Bail Act 1976

²⁸ Section 3(8) Bail Act 1976

The defence lawyer is responsible for:

- Working with the YOT to prepare bail applications.
- Presenting the bail package to the court.
- Putting together subsequent bail packages if the initial bail application is refused and applying to the court to change, add or amend any conditions of bail.
- Attending breaches of bail hearings and supporting the child to remain on bail.

The court is responsible for:

- Ensuring the proceedings are conducted fairly and support the child with regard to their age and understanding.
- Deciding if bail should be granted for the child and any conditions that should be applied to the bail.
- Explaining the conditions of the bail to the child clearly in court.
- Deciding whether, following a breach, the child can be released on bail on the same conditions.

The police and other relevant agencies are responsible for:

- Providing information where necessary to help the lawyer and the YOT put together a suitable bail package (the child's lawyer is responsible for making the bail application itself, setting out the grounds and reasons clearly).

Further guidance

- Case management guidance - How to manage bail and remands - Guidance - GOV.UK (www.gov.uk)
- Court Bail and Remand (yjlc.uk)
- Youth Court Bench Book (January 2024) (judiciary.uk)
- Electronic Monitoring Court Bail Protocol - GOV.UK (www.gov.uk)
- Case management guidance - How to use reports - Guidance - GOV.UK (www.gov.uk)

9. At the bail/remand hearing: Remand to Local Authority Accommodation (RLAA)

Guidance and duties

If the child is refused bail, they should first be considered for remand to local authority accommodation (RLAA). 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 settings²⁹.

²⁹ The Children Act 1989 guidance and regulations - Volume 2. DfE 2021. s8.18 and s8.77.

LAs **must** provide accommodation for all children (10–17-year-olds) remanded to LA non-secure accommodation³⁰.

How does RLAA differ from conditional bail?

RLAA can be imposed with or without conditions and can look very similar to a bail package. RLAA differs from bail in that the LA acts as a corporate parent to the child and is responsible for them – this level of oversight held by the LA can address some the court’s reservation around bail. A child on remand is given looked after status for their time on remand³¹. The YOT and children’s social care **must** provide support for children on remand³².

Finding accommodation

When imposing RLAA, the court **must** state which designated LA is responsible for the child. This will be the local authority where the child habitually resides or where the offence was committed, or the local authority that is currently looking after the child (if they already have looked after status)³³.

Children’s social care **must** decide the most appropriate placement for the child, this may be in specialist fostering, in a children’s home, supported accommodation³⁴ or with friends or family if appropriate³⁵. The court can stipulate that the child must not reside with a named person.³⁶

LAs have a statutory duty to make sure that there is sufficient provision in their area to meet the needs of children in their care. However, this can be challenging for LAs, particularly at short notice and particularly when the needs of the child are multiple and complex. The YOT should work with children’s social care at the earliest opportunity to request they look for a suitable placement for the child. This is especially the case if it is unlikely that the child can stay with friends or family and would need to be placed in local authority commissioned accommodation. **Collaboration and early intervention are key to prevent the child being remanded unnecessarily into custody because of a lack of available accommodation.**

If the child appears in a court that is out of their ‘home’ area, the YOT should work with the home LA children’s social care when making any decisions related to RLAA.³⁷

Looked after status

³⁰ Section 21 Children Act 1989, Part 6 Social Services and Wellbeing (Wales) Act 2014

³¹ Section 104 LASPO Act 2012

³² Section 38 Crime and Disorder Act 1998

³³ Section 92 LASPO Act, Youth Court Bench Book, Remand Provisions para 22

³⁴ An example of innovative residential provision for remanded children is the London Accommodation Pathfinder.

³⁵ Section 21 Children Act 1989

³⁶ Section 93 LASPO Act 2012

³⁷ Case management guidance - How to manage bail and remands - Guidance - GOV.UK

A child on remand becomes 'looked after' which allows the child entitlements to care planning and reviews³⁸. It is the responsibility of children's social care to review and understand what entitlements the child will have and to help the child to access these.

A plan for the child should be agreed and put in place based on the children's social care assessments of the child's needs no more than 10 working days from the start of the remand. The child's YOT should be aware of this plan and, where possible, remand reviews and looked after reviews for the child could be combined to ensure a holistic approach.

While the remanded child is looked after by a local authority, the Virtual School Head in that authority is responsible for discharging the duty to promote the child's educational achievement.

If the child has looked after status for 13 weeks or more whilst on remand (including at least one day on or after their 16th birthday) they are given Care Leaver status when they are no longer on remand³⁹. It is the responsibility of children's social care to help the child understand what provisions can be accessed with their care leaver status. Children's social care should ensure every child eligible for leaving care services has a pathway plan which sets out the child's entitlements and support. If the child spends less than 13 weeks on remand, they are likely to still be a Qualifying Care Leaver and have entitlement to some support from the Local Authority.

YOTs should be engaging closely with other partners such as housing, health services and education or training providers throughout a child's time on RLAA, not only to ensure that the child is receiving the right support while on remand, but to so that in, in the event that the child's period on remand ends and they do not receive a custodial outcome, there are plans ready for continuity of support.

Changing conditions of RLAA

The LA can apply to the court to impose, vary or revoke any conditions of RLAA⁴⁰.

If the child has their 18th birthday whilst on RLAA, the court has the option to bail or remand them to custody. The YOT should work with the child's lawyer to put together a bail package with as similar conditions as possible to those of the RLAA in order to prevent an unnecessary custodial remand.

Custody time limits apply to RLAA in the same way as custodial remand which the court **must** adhere to. Custody time limits are:

- 56 days in the Magistrates Court and Youth Court.
- 182 days in the Crown Court.

³⁸ Section 21 Children Act 1989, Part 6 Social Services Wellbeing (Wales) Act 2014

³⁹ Section 21 Children Act 1989, Part 6 Social Services Wellbeing (Wales) Act 2014

⁴⁰ Section 93 LASPO Act 2012

Breach of RLAA

Breach of RLAA is not a separate criminal offence, but the police can arrest the child if they believe they have breached their conditions. The child **must** appear before the court within 24 hours⁴¹. As soon as the court date and time is known, the YOT should speak to the child and their carer(s) to answer any questions.

The court **must** determine if a breach took place and decide whether to amend the child's RLAA conditions⁴².

The child's lawyer and YOT can argue for the child to remain on RLAA or reconsider bail with conditions, where appropriate, to prevent any unnecessary remands to custody.

Who is responsible?

The YOT is responsible for

- Ensuring the LA is acting as a corporate parent to the child on RLAA.
- Working with children's social care at the earliest opportunity to source LAA.
- Working with the YOT in the child's home area if they appear in a court out of area.
- Putting a plan in place if the child turns 18 whilst on RLAA.
- Supporting the child when on RLAA.
- Informing the child and their parents/ carers of the time, date and location of any breaches of RLAA hearings.
- Attending breaches of RLAA hearings and supporting the child to remain on bail.
- Being aware of the child's looked after child plan.
- Planning for the child's resettlement.

Children's Social Care are responsible for:

- Acting as the corporate parent to the child on remand.
- Finding and deciding the most appropriate placement for the child on RLAA and giving consideration to a child who might turn 18 on RLAA (including Bail).
- Understanding the entitlements the child has from their looked after/care leaver status and ensuring the child understands these entitlements and how to access them.
- Carrying out reviews for the child as part of their looked after status to assess their welfare, support and needs.
- Agreeing and putting together a looked after child plan within 10 days of the child's remand.

Virtual School Heads are responsible for:

- Supporting social workers to ensure timely provision of a suitable education placement for looked-after children on remand.

The defence lawyer is responsible for:

⁴¹ Section 97 LASPO Act 2012

⁴² Section 97(5) LASPO Act 2012

- Making bail applications, working with the YOT to do this.
- Attending breaches of RLAA hearings and supporting the child to remain on RLAA or make proposals for alternative bail packages.

The court is responsible for:

- Deciding whether to remand a child to LAA.
- Stating in open court the LA responsible for the child.
- Consulting with the LA about the availability and suitability of accommodation.
- Adhering to the custody time limits that apply to RLAA in the same way as custodial remand.

Further guidance

- Court Bail and Remand (yjlc.uk)
- Case management guidance - How to manage bail and remands - Guidance - GOV.UK (www.gov.uk)
- Youth Court Bench Book (January 2024) (judiciary.uk)
- Ministry of Justice circular (publishing.service.gov.uk)
- The Children Act 1989 guidance and regulations (publishing.service.gov.uk)
- Case management guidance - Case responsibility - Guidance - GOV.UK (www.gov.uk)
- The national protocol on reducing unnecessary criminalisation of looked-after children and care leavers

CASE STUDY: Remand to Local Authority Accommodation (1)

Child 1 was charged with attempted murder. At the time of the alleged offence, Child 1 had no prior charges and no previous engagement with youth justice but was very well known to children's services as they were on a care order due to their parent's physical and mental health. Child 1 has experienced a high number of Adverse Childhood Experiences and a number of foster care placements with their sibling.

Child 1 was bailed at their first appearance at court with an ISS package in place. Initially they stayed at a temporary out of area accommodation placement while a more permanent placement was confirmed. Child 1 has now settled at the new out of area accommodation and the staff there are showing good partnership working with the youth justice team. Bail into the community has meant that supervised visits with Child 1's sibling and parent can be facilitated more easily than if the child was in custody on remand. Child 1 is currently attending school virtually, after an exclusion from school, but discussions are ongoing regarding reestablishing their place at school. A referral has been made to CAMHS to support the child with their mental health concerns. The child is engaging well with their Bail ISS case manager and also has a trusted relationship with Complex Safeguarding staff. A trial date has not yet been set and Child 1 has already avoided 100+ days in custody on remand.

CASE STUDY: Remand to Local Authority Accommodation (2)

Child 2 was charged with murder/manslaughter. They had no previous convictions, cautions or community resolutions. They were initially remanded into a Secure Children's Home for one night but were then remanded to Local Authority Accommodation. Youth Justice were able to quickly develop a clear bail package that was able to demonstrate the strengths that Child 2 had in the community which could be maintained, whilst providing a framework of external controls and welfare support that would serve to provide an alternative option to a remand into custody.

A significant challenge was the request of a wide exclusion zone by the Police Major Incident Team due to the nature of the charge. In Child 2's instance, their family had chosen to move out of the local area following the alleged incident. The family were keen to work with services to assist the development of the bail application, providing information which could then be shared with the Crown, Defence and the Judge presiding over the case.

After being placed on RLAA (under 'Placement of Children with Parents' regulations) Child 2 continued to be supported by a Youth Justice Worker, Probation officer, Independent Reviewing Officer, Pastoral Support Lead and Social Worker. Child 2's ISS timetable was education 5 days per week for 4 hours per day, and they were supported by a Speech and Language Therapist, a Youth Justice CAMHS worker, alongside the YJ Case Manager and Interventions Officers who worked closely with Child 2 to prepare for the trial.

Child 2 has been identified as having difficulties with communication and they are undergoing diagnosis with CAMHS for autism. Staff adapted their approach to engaging with Child 2 and developing a relationship with them.

The child was found 'not guilty' at trial.

10. At the bail/remand hearing: Remand to Youth Detention Accommodation

Guidance and duties

The court **must** only remand a child to youth detention accommodation when certain conditions are met⁴³. In 2022, the Ministry of Justice tightened the tests to remand a child into custody⁴⁴, for example it now **must** be *very* likely that the child will get a custodial sentence. The court **must** also consider the welfare of the child when making the remand decision.

⁴³ Section 98 and 99 LASPO 2012

⁴⁴ PCSC Act 2022

A custodial remand is a last resort option and should only be made when it is necessary and fully justified. The YOT should be proactive in anticipating where a child may be at risk of custodial remand to ensure a strong community alternative such as Bail ISS or RLAA can be put forward.

Remand reasons

The court **must** explain to the child the reason for their custodial remand in the court in child-friendly language⁴⁵. The YOT should check the child understands these reasons in the court. The Legal Advisor or Court Associate **must** agree the wording of reasons for remand with the bench or judge, record the reasons for the custodial remand on Common Platform and they **must** also write these reasons in ordinary language in a letter to be given to the child, the YOT and the child's lawyer⁴⁶. Not only is it important to record the reasons for remand to tackle any bias in court decision-making, the theory of 'procedural justice' suggests that if a child perceives the decisions by the court to be clearly explained and fair, they are more likely to comply with conditions and restrictions placed upon them.

Organising secure accommodation

When imposing remand to youth detention accommodation (RYDA), the court **must** state which designated LA is responsible for the child⁴⁷. This LA is responsible for the secure accommodation costs for the child⁴⁸.

If it is likely the child will be remanded to custody, the YOT should contact the Youth Custody Service (YCS) placement team as soon as possible with the relevant information for the child's placement.

The YCS will decide on the placement based on an assessment covering e.g. child's age, gender and welfare, as well as the availability of placements⁴⁹. The YOT should help advise the YCS on where is best to place the child by providing information regarding, for example, any Special Educational Needs and Disabilities (SEND) or Additional Learning Needs (ALN) in Wales, mental and/or physical health concerns, relevant information about the child's safety, family or previous care placement (working closely with children's social care).

If the YOT and the YCS disagree on the placement decision this should be escalated to managers in the YCS's Placements team and the YOT.

Once a placement decision has been confirmed, YCS should issue a placement confirmation form to the YOT, the escort contractor and the accommodation provider⁵⁰.

⁴⁵ Section 102 LASPO 2012

⁴⁶ Section 102 LASPO 2012

⁴⁷ Section 102(6) LASPO 2012

⁴⁸ Section 102(6) LASPO 2012 with reference to section 103

⁴⁹ Youth Justice Board for England and Wales, Case management guidance, How to manage bail and remands.

⁵⁰ Youth Justice Board for England and Wales, Case management guidance, How to manage bail and remands, How the YOT arranges a secure remand placement for a child

The child's YOT worker should spend time with the child after their remand decision to explain what will happen next and undertake a 'post court report' (PCR), which follows the child and is available to the relevant youth secure establishment upon their arrival. They should check on the child's well-being, as this can be a highly distressing time. The YOT worker should discuss if there is any practical support that the child needs, considering any wider existing support networks and the child's age and maturity.

Oversight

YOT Management Boards could initiate a multi-agency review when a child is RYDA, which identifies reasons for the offending and missed opportunities to intervene.⁵¹

Supporting the child in custody and resettlement

Once the child has been remanded into custody, the YOT should ensure the child is allocated to a specific YOT worker in the team – ideally one with prior knowledge and a pre-existing rapport with the child.

The YOT should work with the secure establishment to put remand plans in place.

The YOT, children's social care and the child's lawyer should all prioritise visiting the child in custody to ensure they feel supported. Meetings with YOT and social care staff could be combined to prevent repetition and confusion for the child so joint working between agencies here is key. Although the custodial establishment is responsible for taking care of the child day-to-day, the duty of care towards the child by the YOT, children's social care and the child's lawyer remain ongoing and active.

The YOT should hold an initial in person meeting with the child within five working days from the date of the remand. Within this meeting, the YOT should use a single detention placement plan⁵² to discuss the continuity of the child's education or training (although many children are not in education at the point of entering custody) as well as any supported needed in relation to learning difficulties or disabilities, physical or mental health needs the child may have. This meeting could be combined with children's social care looked after plan meeting and should be attended by the child, the YOT, children's social care, and the child's parents/carer. The relevant Virtual School Head should be engaged on this. The child's lawyer could also attend.

Resettlement to the community after a period on remand can be particularly challenging because the timing of possible release is not known far in advance. It is crucial that planning should begin for the child's resettlement from the start of the RYDA in case of release at short notice. The detention placement plan will form part of this resettlement along with children's social care looked after plan. YOTs should closely engage other partners, such as housing, health services and education providers, in the resettlement planning process.

⁵¹ Recommended joint Thematic Inspection of remand 2023 and in YJB CMG as best practice

⁵² (remand-detention-placement-plan-.doc)

If the child is approaching 18 at the initial planning meeting, planning should also begin for the child's possible transition to probation and the adult prison estate.

See section above on 'RLAA' for further detail on responsibilities regarding the child's 'looked after' status.

Who is responsible?

The YOT is responsible for:

- Contacting the YCS placement team to alert them to a possible placement.
- Recording the court's decision.
- Checking the custodial warrant.
- Advising the YCS on the most suitable secure accommodation for the child.
- Spending time with the child following their remand decision to support their wellbeing and discuss next steps.
- Informing parents or carers of the remand outcome and placement.
- Working with the lawyer on subsequent bail applications to the court.
- Visiting the child in custody and putting together a remand plan and keeping all decisions under review.
- Being aware of the child's looked after child plan.
- Planning for the child's resettlement.
- Auditing youth custodial remand decisions locally.

Children's Social Care are responsible for:

- Advising the YCS on the most suitable secure accommodation for the child.
- Carrying out reviews for the child as part of their looked after status to assess their welfare, support and needs.
- Visiting the child in custody.
- Agreeing and putting together a looked after child plan within 10 days of the child's remand. Ensuring support from the Virtual School Head.
- Paying for secure remands (in discussion with YOT).

The defence lawyer is responsible for:

- Putting together and presenting further bail applications to the court.
- Visiting the child in custody.

The Court is responsible for:

- Deciding whether to remand a child to youth detention accommodation.
- Stating in open court the reason(s) for the custodial remand.
- Providing the reason(s) in plain English in writing to the child, the child's legal representative and the child's Youth Offending Team.
- Recording the reasons on Common Platform.
- **Note** - Magistrates' courts must also specify the reasons in the warrant of commitment and in the register.

The YCS is responsible for:

- Deciding the best secure placement based on the child's needs and the YOT recommendations.
- Ensuring a looked after child plan is in place for the child while on remand and liaising with children's social care and the Virtual School Head.
- Working with the YOT, children's social care and other partners on plans for the child's resettlement.
- Ensuring that risk and vulnerability assessments and information is shared appropriately to support children whilst in custody and for resettlement planning.

CASE STUDY: Magistrates visit youth detention

As part of Derby City Youth Justice Service's work on youth remand, a bespoke initiative was designed as a collaboration between Youth Justice, HMYOI Werrington and GeoAMEY (escorting service), to enable youth magistrates to see firsthand the impact that a remand into youth detention can have on a child.

Following the 'journey of the child', eight youth magistrates were first met in the cells of the courthouse where they heard about the range of circumstances that might lead to a child ending up in the court cells and the often confused and vulnerable state the child presents in. On a subsequent visit the magistrates were escorted at HMYOI Werrington where they were taken through the route the child would take on arrival at the establishment. HMYOI Werrington staff were able to give a clear insight into the specific challenges a child on remand would face, as well as the challenges staff face when supervising children on remand alongside children who are serving long sentences. The magistrates asked the HMYOI Werrington staff questions but were also able to speak to a number of children to directly hear their views and experiences.

The magistrates fed back very positively on the visits and there was a suggestion that all youth magistrates could benefit from this kind of experience.

Further guidance

- Legal Aid, Sentencing and Punishment of Offenders Act 2012 (legislation.gov.uk)
- Court Bail and Remand (yjlc.uk)
- Youth Court Bench Book (January 2024) (judiciary.uk)
- Ministry of Justice circular (publishing.service.gov.uk)
- Remand detention placement plan (Case management guidance - How to manage bail and remands - Guidance - GOV.UK (www.gov.uk) – how to support a child who has been remanded to custody
- <https://www.gov.uk/guidance/placing-young-people-in-custody-guide-for-youth-justice-practitioners>
- Youth to adult transition principles and guidance for Wales - GOV.UK (www.gov.uk)
- Joint national protocol for transitions in England - GOV.UK (www.gov.uk)
- Promoting the education of looked-after and previously looked-after children - GOV.UK