

# **Protocol for Court Ordered Secure Remands**

## **Placed into Secure Training Centres and Secure Children's Homes**

**Youth Justice Board for England and Wales**

**Directorate of Secure Accommodation**

**Placement Service**

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## Introduction

1. This protocol details the basis of agreement between the ‘responsible authority’ – the local authority with the responsibility for a young person made subject to a Court Ordered Secure Remand (COSR), and the Youth Justice Board (YJB). The responsible authority has the statutory duty to place a young person made the subject of a COSR. This document sets out arrangements under which the YJB will exercise its statutory function, under section 41(5)(k) of the Crime and Disorder Act 1998, of offering assistance to local authorities to discharge their duty to place a young person subject to a COSR.
2. All references within the protocol to a ‘placement’ or ‘admission’ refer to the placement or admission into secure accommodation of a young person subject to a COSR. Placement and admission are used interchangeably throughout the protocol.
3. The Protocol outlines the process of admission to either a Secure Children’s Home (SCH) or Secure Training Centre (STC) for a young person made subject to a COSR and details the additional basis under which the YJB will consent to the placement of a COSR into an STC. It has been drawn up with the agreement of the Secretary of State.
4. For a placement to be made to either an SCH or STC, the YJB must be in possession of a copy of the *Protocol Agreement Form* (at Appendix 3) signed on behalf of the responsible authority. This form need only be signed once by a responsible authority not on every occasion a young person is made subject to a COSR
5. A placement into an STC, however, *will not* normally be made in any instance unless the YJB has a signed copy of the Protocol Agreement Form. This is due to the fact that the placement must be authorised by the Secretary of State or the YJB (who may now consent to placement in an STC by virtue of Article 4(2) (t) of the Youth Justice Board for England and Wales Order 2000, as amended by Article 2(3)(c) of the Youth Justice Board for England and Wales (Amendment) Order 2008. As a matter of good practice a signed copy of the Protocol Agreement Form should also be available where a young person subject to a COSR is placed into an SCH.
6. Subject to any future review the local authority will be charged one-third of the bed price for a placement in a SCH or STC
7. There should be training arranged by the local authority for all staff concerned with the management of this process.

8. There is an expectation that when a COSR is made the local authority will allocate a social worker and follow statutory regulations for looked after children.<sup>1</sup>
9. The YJB has produced a Guidance document for YOTs and establishments on COSRs and Remands to Prison Custody. It is available from the YJB website<sup>2</sup>.

### ***Legal Basis for a Court Ordered Secure Remand***

10. Section 23(1) of the Children and Young Persons Act 1969<sup>3</sup> enables a court to remand a child or a young person under 17 years of age and, if it does so, that remand must be to accommodation provided by the responsible authority. (This needs to be understood in the light of the provisions set out below).
11. Section 23(4) of the Children and Young Persons Act 1969 enables a court, when remanding within s 23(1), to require that a local authority place the young person in secure accommodation.
12. Section 23(5A) of the Children and Young Persons Act 1969 provides that in respect of a 15 or 16-year-old boy, if a court considers that because of their physical or emotional immaturity or propensity to harm themselves it is undesirable to remand that person to a prison, they may remand the young person into secure accommodation or, if no secure accommodation is available, into prison custody.
13. Section 23(7A) of the Children and Young Persons Act 1969 provides that where a child or young person is remanded and made subject to a security requirement, the local authority may arrange for the child or young person to be detained in a STC. The consent of the Secretary of State must be obtained before a placement is made into a STC. The Youth Justice Board now has the authority to consent to such a placement.
14. Section 23(7B) of the Children and Young Persons Act 1969 allows arrangements made under s 27(7A) to include provision for payment to be made by the local authority to the Secretary of State.

<sup>1</sup> See paras 17/18

<sup>2</sup> <http://www.yjb.gov.uk/NR/rdonlyres/742EF30B-D6EB-4461-AF38-151D7EF35520/0/CourtOrderedSecureRemandsandRemandstoPrisonCustody.pdf>

<sup>3</sup> All references to primary and secondary legislation are to that legislation as amended and in force at the date of issue of this Protocol.

15. Section 22(1) of the Children Act 1989 provides that a child who is either in the care of a local authority or is “provided with accommodation by the authority” in the exercise of certain social services functions, within the meaning of the Local Authority Social Services Act 1970, will be regarded as a “looked after” child.
16. A child or young person placed into a STC or secure children’s home is being “provided with accommodation by the authority in the exercise of any functions” under s 22(1) and is therefore to be regarded as a “looked after” child.
17. The powers and duties of local authorities to children who are looked after by them are set out in the Children Act 1989 as principally amended by the Children (Leaving Care) Act 2000, the Adoption and Children Act 2002 and the Children and Young Persons Act 2008, as well as the associated Regulations and guidance on the exercise of those functions. Practitioners and their managers will need to be familiar with the legislation, the associated Regulations and the statutory guidance.
18. New Regulations and Statutory Guidance on the care planning, placement and review process for looked after children will be issued in 2010. They are currently in draft form.<sup>4</sup>

The Welsh Assembly Government will be consulting on new arrangements for Wales. The principal regulations for placement and review arrangements for children in care in Wales were changed in 2007<sup>5</sup> and include some subtle difference in the process between England and Wales in particular the arrangements for placing children out of area, the people who must contribute to the review of the child care plan and health and education of looked after children.

### ***Legal Powers according to age and gender***

19. Children under 10 are below the age of criminal responsibility.

<sup>4</sup> Care Planning, Placement and Case Review Regulations [2010] (England) [2010]: Consultation Draft (DCSF November 2009)

Putting Care into Practice. Draft statutory guidance for local authorities on care planning, placement and case review for looked after children. (DCSF November 2009)

<sup>5</sup> See – the Placement of Children (Wales) Regulations 2007 and the Review of Children’s Cases (Wales) Regulations 2007 – and guidance Towards A Stable Life (2007)

### **10–11-year-olds**

A court may decide to bail the child with or without conditions, or remand to local authority accommodation with or without conditions. The local authority may apply to hold the child in secure accommodation under s25 of the Children Act 1989 if the criteria in the Children (Secure Accommodation) Regulations 1991 are met. There are no legal powers for this age group to be made subject to a COSR.

### **20. 12–14-year-olds and 15–16-year-old girls**

A court may decide to bail the child or young person with or without conditions, or remand to local authority accommodation with or without conditions. The court itself may decide to remand the child or young person to secure accommodation under s 23 of the Children and Young Persons Act 1969 if the criteria in that section are met by making a COSR. A court may not remand this group to prison custody (a YOI). The responsible authority may, if a COSR is not made, apply separately to hold the child in secure accommodation under s 25 of the Children Act 1989, if the criteria in the Children (Secure Accommodation) Regulations 1991 are met.

### **21. 15–16-year-old boys**

The same applies to this group as for 12–14-year-olds and 15–16-year-old girls, except that *only* if the court considers it undesirable to remand the young person to prison custody (a YOI) because of their physical or emotional immaturity or propensity to harm themselves may it remand the young person to secure accommodation under s23 of the Children and Young Persons Act 1969, and only then if the criteria in s 23(5) are met and a secure place has been identified *in advance*.

### **22. 17-year-old boys and girls**

A court can only remand this group to prison custody (a YOI), not to secure accommodation. In certain circumstances, the local authority may apply to hold the young person in secure accommodation under s 25 of the Children Act 1989.

### **23. Applications under s 25 of the Children Act 1989**

In the case of a child under 13 years of age, the local authority must obtain prior approval from the Department for Education's Secretary of State (or the Welsh Assembly Government in relation to a child that resides in Wales) before placing such a child in secure accommodation. This does not apply to a 12-year-old made subject by a court to a COSR.

### ***Admissions Criteria***

24. The criteria for a Court Ordered Secure Remand are those that are defined in Sections 23 of the Children and Young Persons Act 1969 and these must be met for an order to be made by a court and a placement into a SCH or STC.
25. The YJB Placement Service aims to prioritise SCH places for younger children and those with the most complex needs. There are systems in place to monitor placements and the local authority in conjunction with the YJB Placement Service can transfer young people as appropriate.
26. A Protocol Agreement Form signed by the responsible authority should be with the YJB Placement Service.
27. The responsible authority remains the placing authority for COSRs.
28. The YJB Placement Service will provide local authorities with the available places in SCHs and STCs and act as a broker between the local authority and the secure establishments. The YJB Placement Service will also provide advice to local authorities as to the suitability of placements if this is requested by the local authority.

### ***Admissions Process***

29. The YOT is responsible for providing the YJB Placement Service with assessment information on a young person where the court outcome is likely to be a COSR or custody. This information should be forwarded electronically in advance of the court hearing, or if a COSR was not expected, as soon as the court indicates that it is minded to make such an order. This documentation must include a YJB Placement Alert Form, completed Asset – Core Profile which must be less than one month old and pertain to the current offence, and any other information relevant to safeguard the young person or others. In the case of an overnight arrest an Asset – Bail Profile (also known as Asset – Bail Supervision and Support Profile) must be sent with the YJB Placement Alert Form.
30. There is a requirement for courts to consult with the local authority to ascertain the availability of secure accommodation before an order is made. If a court is minded to make a COSR, before the court makes its final decision the YOT Officer at court should alert the YJB Placement Service that a secure remand placement may be required and at the same time the YOT Officer should ensure that contact is made with the local authority responsible for the child (if the child or young person is already looked after) or the authority that will be responsible for the child or young person should a secure remand be made.

31. The YJB Placement Service will then be responsible for checking whether there are places available in either an STC or SCH and will advise the YOT Officer at court whether or not places are available.
32. It is normally the case that places are available and once the secure remand has been made the YJB Placement Service will advise the YOT of the most appropriate available place for the young person.
33. However, if, exceptionally, a place is not available the relevant local authority will need to make alternative arrangements which it deems most appropriate in the circumstances until a secure place becomes available. This is on the basis that the remanded young person is a looked after child and therefore the placing responsibility lies with the relevant local authority.
34. When a placement is being sought the YJB Placement Service considers all the information made available on the young person and advises the YOT Officer of the most suitable establishment for the young person based on their individual needs, risks and circumstances. This should include information from the local authority if the child or young person is known to them.

The responsible authority should satisfy themselves that the placement is suitable for the particular young person.

35. The YOT Officer at court should also notify the local Authority Children's Services Team that a COSR has been made.
36. The YJB Placement Service will then contact the SCH or STC to notify them of the likely placement, and send all available assessment information electronically to the establishment to enable them to make an assessment as to whether they are able to meet the needs of the young person. At a minimum this will include the:

- Asset-Core Profile (or Asset-Bail Supervision and Support Profile; and
- Asset-Risk of Serious Harm (if applicable).

37. The following documents will also be sent electronically to the establishment by the YJB Placement Service, either at the point of placement or when they become available:

- Most up to date Asset;
- Pre-sentence report;
- Post court report;
- Vulnerability management plan;
- Risk management plan, and
- Any other relevant information.



38. The establishment then has 30 minutes from receipt of the information in which to consider the paperwork, decide whether they are able to meet the needs of the young person taking into account the other residents and notify the Placement Service. Staff from the establishment may wish to discuss the young person directly with the YOT Officer.
39. The YJB expect establishments to have processes in place so that they are able to make a decision within 30 minutes. In exceptional circumstances the STC or SCH can contact the Placement Service advising that they require longer (up to one hour in total) to make the decision, outlining their reasons why this additional time is necessary.
40. Within 30 minutes, or one hour if agreed, of receipt of the information the SCH or STC must notify the Placement Service of their decision by telephone and, if the placement is deemed "unsuitable" provide written record of the reasons for their decision. The written confirmation must be received within the same timeframe; 30 minutes, or one hour if agreed, from the receipt of the information.
41. If the unit accepts the placement then it is expected that this will be the placement for the duration of the remand. If difficulties arise after the placement is made then a transfer may be appropriate and this must be discussed between the establishment, local authority and the YJB Placement Service using the separately agreed transfer procedures that are in place.
42. Before a placement into an STC or SCH can be made a copy of the protocol agreement form, signed on behalf of the local authority, must be provided to the YJB Placement Service. We need only to hold one copy of the agreement so if the local authority has already signed one a new one will not be necessary for each placement made.

### ***Admission Procedure***

43. The responsible authority should provide the STC or SCH with a Placement Plan before the child or young person is placed, if possible but within 5 working days of the placement being made. This is in addition to the documents provided electronically by the YJB Placement Service described in paragraphs 36/37 above.
44. The STC or SCH can not admit the young person if she/he arrives either without a Court Warrant or with an incorrect one. (Please see attached Court Warrants checklist Appendix 2). If this occurs during office hours the responsible YOT Officer should liaise directly with the Court to issue or amend the warrant. The YOT should ensure that they know the local arrangements for contacting a Magistrate out of office hours.
45. Where the Court Warrant or documents have not been received by the STC or SCH, the local authority will be expected to make alternative arrangements for the young person until the situation is remedied.

**Note:** The responsible authority should discuss any occurrence of these situations with the YJB Placement Service, YOT and the relevant senior officer in the local authority with responsibility for the looked after child.

46. Once a COSR is placed into a secure children's home or STC, it is expected that the relevant local authority arrangements for the placement and review of looked after children will be implemented. If a local authority does not carry out its looked after children duties, the YJB may require the local authority to transfer the child or young person to an alternative placement organised and funded by the local authority. If this transfer is required, it must be completed by the local authority within 24 hours.
47. As the local authority has placement responsibility for a COSR, they may at any time transfer the child or young person to an alternative placement organised and funded by the local authority.
48. The STC or SCH may request additional resources from the local authority to facilitate the placement should the individual needs and circumstances of the particular young person warrant it. This would need to be negotiated between the local authority and establishment. The YJB will not provide any additional resources.

### ***Remand Reviews***

49. Reviews of all placements must be in accordance with the National Standards for Youth Justice Services<sup>6</sup>,
50. In accordance with National Standards a remand review must be set up within five working days of the placement being made. Ideally this should take place in the establishment and include representatives from the local authority (YOT Officer and L.A. social worker).
51. A meeting held in the establishment enables the child or young person's allocated social worker or representative of the local authority to visit and inform an initial planning meeting for a remand plan to be constructed.
52. This initial planning meeting must: -
  - Determine whether a programme could be offered in support of a bail application at the next court appearance.
  - Determine whether the placement is the most suitable for the young person and consider whether alternatives should be discussed with the YJB Placement Service.<sup>7</sup>

<sup>6</sup> The National Standards for Youth Justice have been revised with new Case Management Guidance issued in November 2009

- Prepare a remand plan setting out what programme of work will be offered to the young person by the establishment and responsible authority should the remand continue.
  - Discuss any other relevant issues related to the young person's placement, care, legal status, and individual needs including the arrangements for family and legal visits.
53. A remand review must be held at least monthly to continue monitoring the placement, the remand plan and to make future plans.
54. A specific review meeting should be held prior to sentencing which will include planning for the court disposal and detail the contribution the establishment is able to make to the pre-sentence report.
55. The remand plan will include arrangements for education and training.

### ***Care Planning and Review***

56. A child who is subject to a COSR is a looked after child and the local authority is responsible for planning and reviewing their care in accordance with the Care Planning, Placement and Review Regulations [2010]<sup>8</sup>
57. The child must be visited by a representative of the responsible authority within a week of the start of the placement and second and subsequent visits must take place at least every six weeks after that for the first year. Thereafter, visits are required at least every three months.
58. The responsible authority must prepare a Care Plan within 10 working days of the start of the placement, setting out the long-term plan for the child and the arrangements for the responsible authority to meet their needs.
59. The responsible authority must also appoint an Independent Reviewing Office (IRO) to the child's case.
60. Within 20 working days of the child or young person becoming looked after a statutory review of the child or young person's case must be convened. This review and any subsequent review must be conducted according to the responsible authority's policy on reviews.
61. The second statutory review undertaken by the local authority must be carried out no more than three months after the first review and

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<sup>7</sup> For a 15 or 16 year old boy on a COSR s 142 Magistrates Courts Act 1980 provides a court with the necessary power to re-open the case whilst an order is in place to consider a remand to custody as an alternative option to a COSR.

<sup>8</sup> In Wales, the equivalent care planning, placement and review regulations will apply and are subject to consultation over summer 2010.

subsequent reviews must be carried out no more than six months after the date of the previous review.

62. These statutory reviews must be attended by the child or young person's parents or others with parental responsibility; the child or young person's social worker, the YOT Officer local for their case, establishment staff and any other relevant professionals. The IRO has a specific responsibility to ensure that the review is child centred and that the child or young person is able to make a meaningful contribution to future plans for their care.

### ***Re-admissions***

63. If a young person has been accommodated in a STC or SCH whilst on remand then they will automatically be returned to the same STC or SCH when re-remanded or sentenced, unless by agreement with all parties an alternative placement has been arranged.
64. On return the Placement Service will not provide duplicate information unless an updated Asset or any new information is made available to the YJB Placement Service.
65. If the receiving establishment thinks it is not appropriate for them to continue to accommodate the young person then they must initiate early discussions with the Placement Service at least 24 hours prior to the young person's court appearance. The responsible authority should also be consulted. Any decision to transfer a young person must be agreed by all parties.

### ***Escorts and Transport***

66. The responsibility for arranging and funding transport for a COSR rests with the responsible authority.
67. At court the responsibility for holding a young person subject to a COSR whilst awaiting the arrival of escorts lies with the local authority. PEMS' contractors have now agreed a variation order to their contracts to remove the exclusion of children and young people remanded to the local authority. This was effective from 1<sup>st</sup> June 09 and allows a young person made subject to a COSR to be held in the court cells area whilst awaiting transport. The local authority remains responsible for the young person.

### ***Family Visits***

68. The establishment will facilitate visits from members of the young person's family in accordance with the child's care plan and requirements of the YJB contract.
69. The responsible authority will be required to provide assistance to parents in order to maintain reasonable contact with their children whilst they are subject to a COSR and placed into either a SCH or STC.

### ***Legal Visits / Representatives of the local authority***

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

### ***Medical Treatment***

71. The responsible authority is required to include within the child's Placement Plan any arrangements for the delegation and responsibility for consent to medical or dental examination or treatment child's health and dental care.
72. The responsible authority must satisfy themselves that the establishment will ensure that any medical treatment or emergency is dealt with, and will consult the local authority and the child's parents wherever possible. This will include where young people are remanded who suffer from chronic medical conditions such as diabetics, asthma, epilepsy etc.
73. The responsible authority will need to arrange and fund transport (except in an emergency) to hospital or outpatient appointment or for a bed watch if a hospital admission is required, in respect of any pre-arranged appointment, or course of treatment, made prior to admission to the establishment.

### ***Temporary Release***

74. Temporary release decisions for remanded young people will be agreed jointly by the senior designated manager in the local authority's service for looked after children and the establishment. The expectation is that they will only be considered in exceptional circumstances and not form part of any remand plan. Such circumstances might include visiting a sick relative, attending a funeral of a close relative or attending court on non-criminal matters.

75. If temporary release is agreed then the local authority will be expected to make the transport arrangements and provide the staffing complement to supervise this.

### ***Production Orders / Court Appearances***

76. The local authority is responsible for ensuring the young person's attendance at court. They must inform the establishment (and YJB Placement Service) of all court appearances in advance and make the necessary transport arrangements

### ***Safeguarding***

77. All establishments have comprehensive Safeguarding Procedures in place which have been established in accordance with Working Together to Safeguard Children (2006).

<http://www.everychildmatters.gov.uk/resources-and-practice/IG00060/>

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

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

### ***Complaints and Representations***

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

### ***YJB Placement Service – Contact Details***

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

**0845 363 6363**



## Court Ordered Secure Remands

### Transport Protocol

#### **Introduction**

1. The local authority is responsible for arranging transport to the STC or SCH following the making of a court ordered secure remand.
2. The local authority should be satisfied that the provider is reputable and can safeguard the welfare and security needs of the young people it has contracted to escort the young person.
3. The YJB has developed guidelines, "Guidelines for transporting young people on remand", published in July 2010, to assist local authorities when using escort contractors. These guidelines should be followed by all local authorities when discharging their duties to transport young people placed on remand.

#### **The principles underpinning minimum standards**

4. All children and young people should be treated with dignity and respect at all times.
5. The transport arrangements for children and young people should support the ethos of the establishment to which they are being transported.
6. The transport arrangements should seek to minimise the risk of self and third party harm / damage.
7. Children and young people should be transported humanely and the level of comfort should be commensurate with modern standards and the duration of the journey.

# Court warrants checklist – guidance for use

Author: Natasha Richards

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## ***Summary for YOT checklist on Warrants***

The following summary and checklist has been jointly produced with YJB and HM Court Service (HMCS) to ensure that the accuracy and quality of warrants is maintained. This can have significant implications for the YJB Placement and Casework Service and secure establishments if young people leave the court with an incorrect warrant.

The court is local for issuing the warrant and for ensuring it is correct. The aim of the attached checklist for YOT practitioners in court is to know what to look out for in order to try and filter out possible incorrect warrants as early as possible.

If there are any concerns with the warrant these should be raised with the court as soon as possible.

### ***1. What to do if you think the Warrant is incorrect and noticed during working hours***

1. Please discuss immediately with the HMCS legal adviser who issued the warrant for amendments to be made before the young person leaves court.
2. If an inaccuracy is discovered after the young person has left the court please contact the HMCS legal adviser who issued the warrant and request that an amendment is made.

**Please also advise YJB Placements of the error on 0845 363 63 63.**

3. It may be that an incorrect warrant is only discovered once the young person has arrived at the designated secure estate establishment in which case YJB Placements will have been advised of this and will in turn contact the relevant YOT to correct the warrant.

### ***2. What to do if you think the Warrant is incorrect and it is out of normal working hours***

1. Please contact YJB Placements immediately on **0845 363 63 63** who will advise you of the action that will need to be taken depending on the individual circumstances.
2. If a correction is required in order for a young person to be admitted to a secure estate establishment the YOT will be required to contact their local duty HMCS out of hours Court manager to arrange for a correct warrant to be produced.

#### **Process**

- The completed Warrant and Placement Authorisation Form must be placed in the Secure Escort Folder and given to the secure escort service.
- The Post Court Report must be transmitted within two hours to the YJB Placements who will send to the secure estate establishment via Connectivity or Secure email. All key documents (Core ASSET, RoSH, and Placement Alert Form) must be sent electronically to YJB Placements in advance of the court appearance. YJB Placements will in turn send these to the establishment via Connectivity or secure email.

Additional supporting information including a list of previous convictions, PSR, other reports should be placed into the Secure Escort Folder.

Wherever possible this information should also be sent through to the YJB Placements & Casework Service via Connectivity or Secure email.

**WARRANT CHECKLIST FORM FOR: Youth offending teams and secure establishments**

All warrants should be checked for accuracy before leaving a court.

\_\_\_\_\_ YOUTH / MAGISTRATES /CROWN COURT

Young Person's name: \_\_\_\_\_ (in full) DOB \_\_\_\_\_ (essential)

AGE: \_\_\_\_\_ Case Number: \_\_\_\_\_

Next Court Date: \_\_\_\_\_ (optional)

Check that the warrant has been **dated and signed by the court**; and includes one of the below remand or sentenced categories.

Tick which applies

- |   |   |                          |
|---|---|--------------------------|
| 1 | <u>Remand to Custody</u>  | <input type="checkbox"/> |
| 2 | <u>Court Ordered Secure Remand</u>  | <input type="checkbox"/> |
| 3 | <u>Detention and Training Order</u><br><u>S 100 Powers of Criminal Courts (Sentencing) Act 2000</u>                                 | <input type="checkbox"/> |
| 4 | <u>DTO Recall</u>   | <input type="checkbox"/> |
| 5 | <u>Detention during Her Majesty's pleasure (HMP)</u><br><u>Powers of Criminal Courts (Sentencing) Act 2000 – Section 90</u>         | <input type="checkbox"/> |
| 6 | <u>Detention for public protection</u><br><u>Criminal Justice Act 2003 – Section 226</u>  | <input type="checkbox"/> |
| 7 | <u>Extended sentence for certain violent or sexual offences</u><br><u>Criminal Justice Act 2003 – Section 228</u>                   | <input type="checkbox"/> |
| 8 | <u>Determinate sentence for specified 'serious' offences</u><br><u>Powers of Criminal Courts (Sentencing) Act 2000 – Section 91</u> | <input type="checkbox"/> |

If there is any doubt on the accuracy of warrants, please contact the following immediately during:

Working hours - your local HMCS legal adviser

Out of hours - YJB Placement and Casework Service on **0845 363 63 63**

### ***'For information' for secure establishments: Guidance on Warrants***

The following information has been jointly produced with YJB and HM Court Service (HMCS) to ensure that the accuracy and quality of warrants is maintained.

#### **Roles**

Secure escorts and establishments are required to check warrants to ensure validity and correctness of the warrant or order.

#### **Responsibilities**

Secure estate providers contracts give them responsibility for ensuring the validity and correctness of the warrant or order;

- for escorts, before leaving court,
- and, for establishments prior to commencement of the admission procedure.

#### **Process**

Providers should verify the warrant or order by checking:

- Trainees name and date of birth, properly identifying him/her as the person named in the warrant
- Duration and type of sentence
- That the warrant or order is signed and dated

#### **What to do if these checks show the warrant to be incorrect**

1. If not satisfied with the documentation presented then they are not to sign for the young person until the problem has been satisfactorily resolved.
2. If necessary the Control Centre is to be informed of the problem and they will assist, involving YJB Placements if necessary.

For any further information please contact a member of the YJB Placement and Casework Service on **0845 363 63 63**

**Summary issued in Her Majesty's Court Service E-news 4/11/09 for the attention of Magistrates and Crown Courts.**

The remand provisions for youths are not straightforward. There are a number of criteria to be met before a young person can be remanded in custody. It is clearly important that the decision of the court is correctly reflected in any warrant produced.

In light of this a remand and sentence warrant checklist has been drawn up for use by the courts when a youth defendant has been refused bail or given a custodial sentence. This is a simple tick box form and will help both resulting and those signing the warrant to be sure that the correct warrant with the correct information is produced first time. This form will be incorporated into the new youth file cover which is being produced.

Until the youth file cover is available copies of this checklist can be filled in by the legal adviser in court and attached to the front of court files. Those resulting can then use that information to ensure they produce the correct type of warrant. The legal adviser checking and signing the warrant can also refer to the checklist. The form can then be placed in the file in case of any further queries.

# HMCS YOUTH COURT REMANDS WARRANT CHECKLIST FORM

THIS FORM SHOULD BE COMPLETED (AS APPROPRIATE) BY THE LEGAL ADVISOR AND  
RETAINED ON THE COURT FILE

\_\_\_\_\_ **YOUTH / MAGISTRATES / CROWN COURT**

**Defendant's name:** \_\_\_\_\_ **DOB:** \_\_\_\_\_ **AGE:** \_\_\_\_\_

**Case Number:** \_\_\_\_\_ **Next Court Date:** \_\_\_\_\_

Tick

which applies

**A: Remand to Custody**

- 1. Remand in Custody for those that are 17 (adult grounds only needed)
- 2. Remand in Custody -15/16 year old boys. s 23(5A) of the Children and Young Person's Act 1969 does not apply (not deemed vulnerable)

**B: Court Ordered Secure Remand**

*Placed into a Secure Children's Home or Secure Training Centre*

*Male or female aged 12 to 14; Female aged 15 or 16*

*Males 23(5A) of the Children and Young Person's Act 1969 does apply (deemed vulnerable) aged 15 or 16 and a place is available*

- 1. Must consult the Youth Offending Team before a COSR is made to ascertain availability of a place
- 2. Must have legal representation – order unless refuses to apply
- 3. **Confirm COSR criteria are met:**
  - Charged / convicted of an offence which is sexual, violent or offence carries at least 14 years imprisonment in the case of an adult
  - or**
  - Charged / convicted of one or more imprisonable offences which amount to a recent history or repeatedly committing such offences whilst remanded on bail or to local authority accommodation
  - or** (15 or 16 year old boys only)
  - Recent history of absconding whilst remanded to local authority accommodation and charged / convicted of an imprisonable offence alleged or found whilst remanded
  - and**
  - To prevent the commission by him / her of imprisonable offences
  - or**
  - The court is of the opinion that only such a remand would be adequate to protect the public from serious harm from him / her because of the following reasons:

**Signed:** \_\_\_\_\_ **Name:** \_\_\_\_\_

**Date:** \_\_\_\_\_

# HMCS YOUTH COURT SENTENCE WARRANT CHECKLIST FORM

THIS FORM SHOULD BE COMPLETED (AS APPROPRIATE) BY THE LEGAL ADVISOR AND RETAINED ON THE COURT FILE

\_\_\_\_\_ YOUTH / MAGISTRATES / CROWN COURT

Defendant's name: \_\_\_\_\_ DOB: \_\_\_\_\_ AGE: \_\_\_\_\_

Case Number: \_\_\_\_\_

Tick

which applies

- a) **Detention and Training Order**  
**S 100 Powers of Criminal Courts (Sentencing) Act 2000**

This applies to boys and girls aged 12-17  
Term can only be 4, 6, 8, 12, 18, 24 months.

Term given: \_\_\_\_\_

For those aged under 15 the court must be satisfied they are a persistent offender.

Confirm persistent offender (under 15 year olds only)

- b) **DTO Re-Call S104 or S105 – State which: \_\_\_\_\_ Length given: \_\_\_\_\_**

- c) **Detention during Her Majesty's pleasure (HMP)**  
**Powers of Criminal Courts (Sentencing) Act 2000 – Section 90.**

This is the only sentence available to the courts for a person convicted of murder who was aged under 18 at the time of the offence.

Tariff: \_\_\_\_\_

\_\_\_\_\_

Remand time in days: \_\_\_\_\_

- d) **Detention for public protection**  
**Criminal Justice Act 2003 – Section 226**

Broadly equivalent in application to a Discretionary life sentence, this indeterminate sentence is imposed where the young person is convicted of a specified violent or sexual offence and where the court is of the opinion that there is a significant risk to members of the public of serious harm occasioned by the offender's commission of further specified offences for which the restrictions of an extended sentence for public protection would not be sufficient

Tariff: \_\_\_\_\_

Remand time in days: \_\_\_\_\_

- e) **Extended sentence for certain violent or sexual offences**  
**Criminal Justice Act 2003 – Section 228**

A determinate sentence is imposed upon young people who have committed a specified violent or sexual offence where it is considered that they pose a significant risk to the public and therefore need to be on a licence for extended period of time when they are released from custody. Young people will be released automatically at the half-way point of the custodial term.

Custodial term: \_\_\_\_\_

Extension period: \_\_\_\_\_

Total sentence: \_\_\_\_\_

Remand time in days: \_\_\_\_\_

- f) **Determinate sentence for specified 'serious' offences**  
**Powers of Criminal Courts (Sentencing) Act 2000 – Section 91.**

This sentence provides for young people convicted of certain specified 'serious' offences other than murder, which in the case of an adult are punishable with imprisonment for 14 years or more.

Term: \_\_\_\_\_

Remand time in days: \_\_\_\_\_

Signed: \_\_\_\_\_ Name: \_\_\_\_\_ Date: \_\_\_\_\_

## EXAMPLE OF COSR WARRANT

### *Name of Youth Court*

Date:

Defendant:

Date of birth:

Age:

Address:

Alleged Offence:

Decision:                   The Court has adjourned the hearing of this case to *date*.  
And refused the Defendant bail.

The Defendant is remanded into accommodation provided by or on behalf of the relevant Local Authority.

The Court is satisfied that the provisions of Section 23(5) CYPA1969 apply to the Defendant and the Defendant poses a risk of serious harm to the public because:

*Reason (e.g. grave crime)*

If the Defendant is a male aged 15 or 16 years old - the court has determined that by reason of his physical or emotional immaturity or a propensity of his to harm himself, it would be undesirable for him to be remanded to a prison (YOI) in accordance with section 23(5)(A) CYPA1969.

Direction:                   You, the officers of the relevant Local Authority, are to arrange for the provision of **SECURE ACCOMMODATION** for the Defendant until the next date of *date at time*.

When the Defendant must be produced before the Court, unless the Defendant has previously been released on bail.

By Order of the Court

*Signed*

Clerk of the Court

**EXAMPLE OF A REMAND TO CUSTODY WARRANT**

***Name of Youth Court***

Date:

Defendant:

Date of birth:

Age:

Address:

Alleged Offence:

Decision: The Court has adjourned the hearing of this case to *date*.

And refused the Defendant bail.

**The Defendant is remanded into custody.**

Direction: You, the prisoner custody officers of *Company, e.g. Securicor Custodial Services* are hereby required to convey the Defendant to *Named YOI* and deliver the Defendant to the Governor thereof.

You, the Governor are to receive the Defendant into your custody until the next date of *date at time*.

When the Defendant must be produced before the Court, unless the Defendant has previously been released on bail.

By Order of the Court

*Signed*

Clerk of the Court





## Protocol for Court Ordered Secure Remands

### Protocol Agreement Form

I confirm this Authority's agreement to the Protocol for Court Ordered Secure Remands placed into either a Secure Children's Home or Secure Training Centre; and by doing so understand the basis under which the Youth Justice Board will consent to such a placement from this Authority into an STC.

I understand that this Authority and not the YJB has legal responsibility for any young person from this Authority placed into either an STC or SCH on a Court Ordered Secure Remand.

I confirm that the Local authority has provided training to staff concerned with the management of this protocol and those young people subject to COSRs.

On behalf of \_\_\_\_\_

Local authority Children's Services Department

**NAME:** \_\_\_\_\_

**DESIGNATION:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**Copy to be retained by the Authority**

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On behalf of \_\_\_\_\_

Local authority Children's Services Department

**NAME:** \_\_\_\_\_

**DESIGNATION:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**Copy to be returned to the YJB Placement Service, 1 Drummond Gate, London, SW1v 2QZ.**