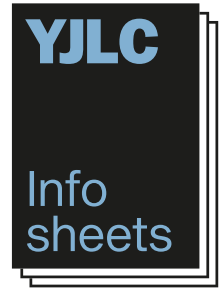


A Criminal Lawyers Guide to the Youth Remand Concordat (Court Bail and Remand)



A shared commitment by MoJ and partners¹ to follow a joint approach, working together in the best interest of the child. P.4]

Useful Facts for Bail Applications

The legal framework for youth remand is clear that custody should always be a last resort. [Purpose and Aims p.4]

In 2023-24, 62% of children remanded to custody did not receive a custodial outcome [Introduction p.3]

Practitioners 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 [Introduction p.3]

Bail at Court [P.16-18]

The court can refuse bail for children for their own welfare or in their own interest.

YOTs must provide bail supervision to support a child in the community as an alternative to remand into custody.

The YOT must also have arrangements in place to offer bail ISS as an alternative to custodial remand.

The child's lawyer is responsible for making the application to the court and to make any applications to court for changes to conditions of the bail.

If bail is initially refused, at every subsequent hearing the court should reconsider if the child can be granted bail. The passage of time itself (or time spent in custody) may be considered a change of circumstances.

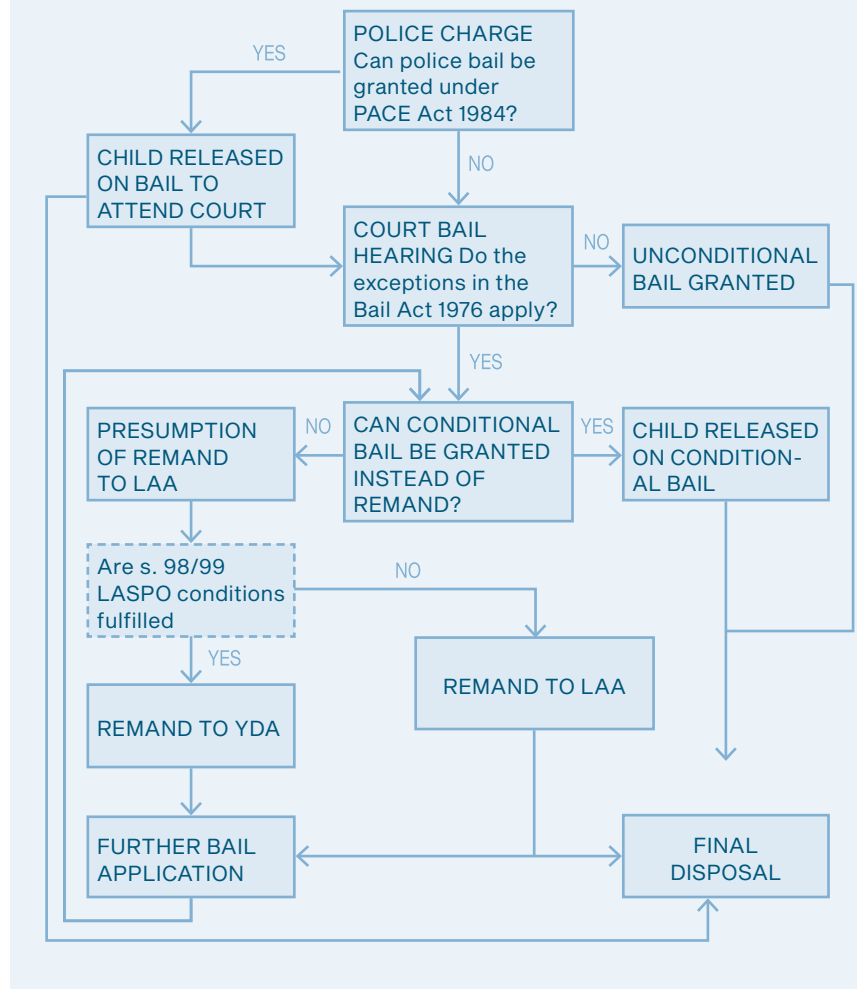
If the child breaches conditions related to their YOT package, it is a matter for the YOT as to whether they bring the matter before court.

Remand to Local Authority Accommodation [P.19 - 22]

If the child is refused bail, they should first be considered for remand to local authority accommodation (RLAA). RLAA can be imposed with or without conditions and can look very similar to a bail package. RLAA placements can be in the child's home, with a relative, in foster care, a children's home or in an 'other arrangements'. Local Authorities (LAs) must provide accommodation for all children (10-17-year-olds) remanded to LA non secure accommodation

RLAA differs from bail in that the LA acts as a corporate parent to the child and is responsible for them. A child on remand becomes 'looked after' which allows the child entitlements to care planning and reviews.

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



When imposing RLAA, the court must state which designated LA is responsible for the child. Children's social care must decide the most appropriate placement for the child.

The YOT should work with children's social care at the earliest moment to request the LA look for a suitable placement for the child.

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

¹ Ministry of Justice, Youth Justice Board, Youth Custody Service, Welsh Government, Home Office, Department for Education, Crown Prosecution Service, YOT Manager Cymru, Association of YOT Managers, Local Government Association, Association of Police and Crime Commissioners, National Police Chief Council, Magistrates Association, National Appropriate Adult Network

Youth Detention Accommodation [P.24 - 25]

A court may only remand a child to YDA when it is very likely that the child will get a custodial sentence. YDA is a last resort option and should only be made when it is necessary and fully justified.

The court must state which designated LA is responsible for the child. This LA is responsible for the costs for the child's YDA.

The child's placement will be determined by the Youth Custody Service (YCS) with the relevant information provided by the YOT

A detention placement plan should be created.

Secure Dock or Well of Court [P.14]

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. or revoke any conditions of RLAA.

Different Responsibilities sit with different parties in a bail and remand decision

Local Authorities Responsibilities

- Ensuring appropriate adults are available to safeguard the interests of children detain or questioned by the police [P.11]
- 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) [P.14]

Children's Social Care Team Responsibilities

- Working with YOTs to develop bail package proposals [P.18]
- Acting as corporate parent to the child on remand [P.22]
- Finding appropriate placement for child on RLAA and understanding the child's entitlements being LAC (plan within 10 days) and leaving care entitlements [P.22]
- Visiting a child in custody and putting together LAC plan within 10 days [P. 27]

YOT Responsibilities

- Putting together a bail package for the child that is based on a robust risk assessment [P. 14]
- Working arrangements with other YOTs to manage out of area remands [P.14]
- Having Court duty service available even on weekends and bank holidays [P.14]
- Putting together a bail package, supporting the child on bail, management of ISS provisions [P. 18]
- Ensuring the LA is acting as corporate parent for child on RLAA, their LAC plan and that the LA is sourcing accommodation [P.22]
- Contacting YCS placement team and advising YCS on secure accommodation suitability [P.27]

Court Responsibilities

- Ensuring the language used in court is suitable for the child's age and understanding [P.15]
- Deciding whether the child should be placed in the secure dock or in the well of the court (children should normally not be in the secure dock) [P.15]
- Deciding whether to grant bail and if so what conditions should be applied [p.19]
- Deciding whether to remand a child to LAA and designating which LA is responsible for the child [P.23]
- When remanding a child to YDA stating the reasons in open court, providing written reasons in plain English to the child [P.27]

Defence Lawyer Responsibilities

- Applying and advocating for child to be out of the secure dock at bail/remand hearing, even if the child arrived from police custody. [P.15]
- Making bail applications - Presenting the bail package to court, making additional bail applications, applying to court to amend conditions [p. 19]
- Representing children at breach hearings [P. 19, 23]
- Visiting the child remanded to custody [P. 27]

CPS Responsibilities

- Alerting the defence lawyer and YOT to any intention to oppose bail as early as possible and disclosing all relevant evidence in good time. [P.15]
- Making applications for youth detention accommodation, only when it is decided that alternatives would be inadequate to protect the public from serious harm or to prevent the commission of further offences. [P.15]