

# #15

# Out of Court Disposals

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The presumption that children will be diverted away from prosecution through the use of out of court disposals (OOCs) is the starting point of the youth justice system. This guide provides an overview of the OOCs available to children and the law and guidance around the decision-making process. It gives practical guidance on how to argue for an OOC for your child client.

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# Introduction

The main institutions of the youth justice system, including the Crown Prosecution Service (CPS), Sentencing Council, Ministry of Justice (MOJ), Youth Justice Board (YJB) and the National Police Chiefs' Council, promote the use of out of court disposals in their policy and guidance.

The idea that children should not be unnecessarily or overly criminalised is based on evidence that diverting children is more likely to prevent offending. Studies have shown that the stigma of formal contact with the criminal justice system increases the likelihood of reoffending.<sup>1</sup> There is

strong evidence that diverting children before they get to court protects them against further involvement in crime.<sup>2</sup> Instead, effective prevention focuses on children's needs, identifying their strengths and creating opportunities that realise their potential.<sup>3</sup> As a result, diversion is key to an evidence-based Child First approach.<sup>4</sup>

We use 'out of court disposals' as an umbrella term for outcomes given to children as alternatives to being charged with a criminal offence (formally or informally). OOCs are also described as 'out of court resolutions' or simply 'diversion'.

## Case study

The decision of whether to award an OOC rather than prosecute is where representations from a legal representative can make the biggest difference to a child's future.

Adam\* was 16 years old when he was caught carrying a knife. He answered 'no comment' in interview and was charged with possession of a bladed article. His solicitor's representations highlighted his vulnerabilities, including an autism spectrum disorder diagnosis and the bullying that had led to him carrying a knife. The CPS concluded that an OOC rather than a prosecution was in the public interest. Adam received a youth conditional caution (YCC). Through this, he engaged with knife-related intervention from the Youth Justice Service. Two years later, Adam took up a job as an apprentice engineer, without being required to disclose his YCC.

- 1 See 'Formal system processing of juveniles: Effects on delinquency', A Petrosino, C Turpin-Petrosino and S Guckenburg, Campbell Systematic Reviews, 2010, <http://bit.ly/41uSkdV>; and 'The effect of police contact: does official intervention result in deviance amplification?', S Wiley and F-A Esbensen, Crime and Delinquency, 2013, <https://bit.ly/41zy7DR>
- 2 'Police-initiated diversion for youth to prevent future delinquent behavior: A systematic review', D Wilson, I Brennan and A Olaghere, Campbell Systematic Reviews, 2018, <https://bit.ly/4bujuGp>
- 3 'Child first justice: The research evidence-base', S Case and A Browning, Loughborough University, 2021, <https://bit.ly/43Qbqhf>
- 4 'Child first justice: The research evidence-base', S Case and A Browning, Loughborough University, 2021, <https://bit.ly/43Qbqhf>

# The availability of OOCs

In principle, OOCs are available for any offence, no matter how serious. Two requirements must be in place for an OOC to be given:

1. There is sufficient evidence to prove the offence.
2. It is not in the public interest to prosecute.

Youth cautions and YCCs also require an admission of guilt to the offence – this forms an important requirement for formal OOCs. Many informal OOCs do not require an admission of guilt.

## The public interest

The Code for Crown Prosecutors sets out the public interest factors that must be taken into account when considering whether to prosecute. The public interest test underlies the decision to offer an OOC and any representations arguing for diversion needs to address these factors. The Code states that 'an out of court disposal may take the place of a prosecution if it is an appropriate response to the offender and/or the seriousness and consequences of the offending'.<sup>5</sup>

Although public interest is most relevant for crown prosecutors, it is also relevant for police decision makers.

The factors are as follows:

- (a) How serious is the offence that has been committed?
- (b) What is the child suspect's level of culpability?
- (c) What are the circumstances of and the harm caused to the victim?
- (d) What was the child suspect's age and maturity at the time of the offence?
- (e) What is the impact on the community?
- (f) Is prosecution a proportionate response?<sup>6</sup>

## Child First

The YJB<sup>7</sup>, police<sup>8</sup> and the CPS<sup>9</sup> have committed to a Child First approach. This approach sees children as children first and foremost, prioritising the best interests of children and recognises their particular needs, capacities, rights and potential.<sup>10</sup>

OOCs have less impact on a child's criminal record than convictions and often still allow for children to engage in intervention and support. In many ways, OOCs are the most proportionate way to fulfil the Child First principles.

## Preventing offending

The principal aim of the youth justice system is to prevent offending by children and young people.<sup>11</sup> OOCs allow for the type of support and targeted intervention that achieves rehabilitation. In addition, an OOC is less likely to taint a child's future than a conviction with a criminal record that will be disclosed.

- 5 'The Code for Crown Prosecutors', CPS, 2018, para 7.1, <https://bit.ly/4kVdPxe>
- 6 'The Code for Crown Prosecutors', CPS, 2018, para 4.14, <https://bit.ly/4kVdPxe>
- 7 'What is Child First?', YJB, <https://bit.ly/3XW0IYh>
- 8 The National Police Chiefs' Council 'Children and young persons policing strategy 2024–2027' operates on a principle of 'child centred policing'.
- 9 'Children as suspects and defendants', CPS guidance, July 2023, <https://bit.ly/4ixXYmH>
- 10 'What is Child First?', YJB, <https://bit.ly/3XW0IYh>
- 11 s37 Crime and Disorder Act 1998

# The out of court disposal framework

The National Police Chiefs' Council (NPCC) Child Gravity Matrix disposal table (which is annexed to this guide) summarises the full range of OOCs.

This table details the availability and implications of each outcome.

## Formal OOCs

### Youth cautions

A youth caution is a formal OOC given to children aged 10 to 17. In order for a youth caution to be given, all of the following must apply:

1. There is sufficient evidence to charge the child with an offence.
2. The child admits guilt in relation to the offence.
3. The officer does not consider they should be prosecuted or given a youth conditional caution (YCC).<sup>12</sup>

After a youth caution is given to a child, the police must refer to the Youth Justice Service (YJS)

'as soon as is practicable'.<sup>13</sup> However, it is good practice to do so before the caution is issued. On referral, the YJS must assess the young person and if they consider it appropriate, arrange for intervention on a voluntary basis.<sup>14</sup> Failure to engage in this voluntary intervention can be cited in future criminal proceedings.<sup>15</sup>

Youth Cautions must be formally issued by the police, in the presence of an appropriate adult, ideally a parent/carer or a social worker.<sup>16</sup> Although an admission of guilt is required, the explicit consent of the child is not.<sup>17</sup>

### Youth conditional cautions

A youth conditional caution (YCC) is a formal OOC that can be given to a child aged 10 to 17. A YCC is an alternative to prosecution.<sup>18</sup>

For a YCC to be given, each of the following five statutory requirements must be met:

1. There is evidence that the offender has committed an offence.
2. A relevant prosecutor (or the authorised person) decides:
  - (a) that there is sufficient evidence to charge the offender with the offence; and
  - (b) that a YCC should be given to the offender in respect of the offence.
3. The offender admits to the authorised person that they committed the offence.
4. The authorised person explains the effect of the YCC to the offender and warns them that failure to comply with any of the conditions attached to the caution may result in prosecution. This explanation must be given in the presence of an appropriate adult.

5. The offender signs a document which contains:
  - (a) details of the offence;
  - (b) an admission that they committed the offence;
  - (c) their consent to being given the YCC; and
  - (d) the conditions attached to the caution.<sup>19</sup>

Unlike youth cautions, the child must consent to the YCC and the conditions attached. In addition to considering the evidence and the public interest, decision makers should take into account the list of considerations set out in the Code of Practice for YCCs.<sup>20</sup>

In any case where an authorised person or prosecutor is considering a YCC, the case should be referred to the local YJS team.<sup>21</sup> YJB guidance states that alternative diversionary disposals should be considered before the use of a YCC as these alternatives can deliver the same interventions.<sup>22</sup>

- 12 s66ZA(1) Crime and Disorder Act 1998
- 13 s66ZB(1) Crime and Disorder Act 1998
- 14 s66ZB(2) Crime and Disorder Act 1998
- 15 s66ZB(7) Crime and Disorder Act 1998
- 16 s66ZA(2) Crime and Disorder Act 1998
- 17 R v Durham Constabulary [2005] UKHL 21, <https://bit.ly/4bWif2M>
- 18 'Out of court disposals – Conditional caution', Sentencing Council Explanatory Materials, <https://bit.ly/4iOTU1e>
- 19 s66A and s66B Crime and Disorder Act 1998
- 20 'Code of practice for youth conditional cautions', MOJ, March 2013, para 6.1, <https://bit.ly/41xma1n>
- 21 'Code of practice for youth conditional cautions', MOJ, March 2013, para 15.1, <https://bit.ly/41xma1n>
- 22 'How to use out-of-court disposals – Youth conditional caution', YJB Case Management Guidance, updated January 2024, <https://bit.ly/4bBBTRQ>

## Conditions of a YCC

The conditions attached to a YCC can be rehabilitative, reparative or punitive.<sup>23</sup> The interventions should be appropriate, achievable and proportionate. To be proportionate, there should be as minimal conditions as possible to achieve the aims of the YCC.<sup>24</sup>

Any financial penalty orders must not exceed £100.<sup>25</sup> There is no limit on the amount of compensation that can be paid but any condition must consider the child's means and ability to pay, the seriousness of the offence and the YJS assessment.<sup>26</sup>

## Failure to comply with conditions of a YCC

Failure to comply with the conditions in a YCC without reasonable excuse is not an offence in itself but can result in prosecution for the offence in question.<sup>29</sup> However, a Child First approach should be taken and it may be appropriate to vary the conditions or, in some cases, take no action.<sup>30</sup> Where there is a failure to comply, the YJS should give the offender the opportunity to clarify the situation and demonstrate compliance. If the failure to comply continues, the YJS should forward a

Decision makers must take into account any time limits affecting proceedings so that prosecution in the event of non-compliance is still available.<sup>27</sup> For a summary only offence, all the conditions must be capable of being completed within a maximum of 16 weeks of the date of the original offence. For either-way or indictable only offences, a period of longer than 16 weeks from the date the YCC is given may be appropriate, but it should be no longer than 20 weeks.<sup>28</sup>

report to the authorised person or prosecutor for a decision.<sup>31</sup>

Once proceedings are started, the YCC ceases to have effect. The fact that a YCC was given and not complied with will remain on a young person's record and the court can be made aware of this fact.<sup>32</sup> However, any period of successful compliance and positive intervention should also be raised in court proceedings as mitigation.

- 23 s66A(3) Crime and Disorder Act 1998
- 24 'Code of practice for youth conditional cautions', MOJ, March 2013, paras 8.1–8.6, <https://bit.ly/41xma1n>
- 25 s66C(3) Crime and Disorder Act 1998
- 26 'Code of practice for youth conditional cautions', MOJ, March 2013, para 11.3, <https://bit.ly/41xma1n>
- 27 'Code of practice for youth conditional cautions', MOJ, March 2013, para 9.1, <https://bit.ly/41xma1n>
- 28 'Code of practice for youth conditional cautions', MOJ, March 2013, 9.2, <https://bit.ly/41xma1n>
- 29 s66E Crime and Disorder Act 1998
- 30 'Code of practice for youth conditional cautions', MOJ, March 2013, para 17.5, <https://bit.ly/41xma1n>
- 31 'Code of practice for youth conditional cautions', MOJ, March 2013, para 17.6, <https://bit.ly/41xma1n>
- 32 'Code of practice for youth conditional cautions', MOJ, March 2013, paras 19.1–19.3, <https://bit.ly/41xma1n>
- 33 'Community resolutions guidance', National Police Chiefs' Council, 2022, para 1.1
- 34 'Community resolutions guidance', National Police Chiefs' Council, 2022, para 2.3
- 35 'Community resolutions guidance', National Police Chiefs' Council, 2022, para 1.9
- 36 'Community resolutions guidance', National Police Chiefs' Council, 2022, para 2.4.1
- 37 'Community resolutions guidance', National Police Chiefs' Council, 2022, para 2.2
- 38 'Community resolutions guidance', National Police Chiefs' Council, 2022, para 2.2

## Informal OOCs

### Community resolutions

Community resolutions are informal disposals that aim to deal quickly with low-level offending. They may be given to children where:

- a case is capable of proof;
- an offender has been identified; and
- there is an acceptance of responsibility or admission of guilt, in the presence of an appropriate adult.<sup>33</sup>

Community resolutions cannot be issued for indictable only offences or intimate partner domestic abuse cases.<sup>34</sup> They are aimed at first time offenders, although forces have the discretion to use community resolutions where an offender has a history of offending.<sup>35</sup> Police should notify the YJS of all community resolutions issued to a child as soon as possible, but at least within 24 hours.<sup>36</sup>

Community resolutions correspond to outcome 8 in the Home Office codes and are a 'positive' outcome for police.

Acceptance of responsibility vs admission of guilt

The meaning of 'acceptance of responsibility' is not defined in legislation. Guidance suggests there must be evidence that the child suspect must either: (i) accept the facts of the case and their responsibility for them; or (ii) accept that their actions 'contributed to the offence'.<sup>37</sup> This is clearly a lesser requirement than a PACE compliant formal admission. There must also be evidence that they are prepared to accept a community resolution and any agreed interventions.<sup>38</sup>

# No further action outcomes

## Triage

The term 'triage' describes a process by which children can be dealt with through informal measures, with the objective of keeping children out of the formal youth justice system. How triage fits into the OOCDF framework is determined

locally and there is no formal requirement to have a triage scheme. These are often used with the 'no further action' outcome 10 in the Home Office codes.

## Outcome 20

This option is used where further action resulting from the crime report will be undertaken by a body or agency other than the police. This is subject to the victim being made aware of the

action being taken.<sup>39</sup> No admission of guilt or acceptance of responsibility is required. The diversionary activity offered is on an entirely voluntary basis.<sup>40</sup>

## Outcome 21

This outcome is for cases where there is sufficient evidence but the police have concluded that formal action against the child suspect is not in the public interest. No admission of guilt or acceptance of responsibility is required and any

diversionary activity will be voluntary.<sup>41</sup> Outcome 21 was created to enable the police to record behaviour such as sexting, without the allegation being disclosed on a DBS check, but it can be used for other types of offence too.

## Outcome 22

This outcome is designed for when diversionary, educational or intervention activity has been completed and, as a result, it is not in the public interest to take any further action.<sup>42</sup> This might include some form of restorative justice or practice, with the consent of all parties involved.<sup>43</sup>

An admission of guilt or acceptance of responsibility is not required for this outcome to be used. It was developed to reflect and respond to the lack of trust in the police and criminal justice system by some ethnic minority groups.

Outcome 22 is also used to record Deferred Prosecution Scheme (DPS) cases. DPSs are a non-statutory disposal, allowing the police to put on hold a prosecution or caution until a diversionary activity is undertaken. If the child does not

comply with the intervention, the prosecution or caution will go ahead. A DPS scheme requires the evidential threshold to have been met. A deferred caution requires an admission of guilt prior to the caution being issued.

Outcome 22 is not consistently applied by all police forces. It is also not currently measured as a positive outcome for forces, which can be a barrier to its use. However, the NPCC guidance states that the lack of positive detection should not deter police from using it.<sup>44</sup> Outcome 22 will often be preferable to a community resolution from both a rehabilitative and public interest perspective and, given its no further action (NFA) status, will be less likely to impact on the child's future prospects.

## Restorative justice

Restorative justice is a process that involves parties with a stake in a specific offence collectively resolving how to deal with the aftermath of an offence. It can take the form of victim-offender mediation through direct or indirect communication.<sup>45</sup>

Restorative justice doesn't correspond to one particular OOCDF. It is available across all options, both formal and informal, where:

- there is some form of intervention;
- the child has accepted responsibility for the harm caused; and
- it is assessed as appropriate for both the child and the victim.<sup>46</sup>

The YJS is required to have arrangements to offer a range of restorative justice processes to go alongside OOCDFs.

39 'Crime outcomes in England and Wales: Technical annex', Home Office, updated January 2025, para A6.5, <https://bit.ly/4kAp9Pt>

40 'How to use out-of-court disposals – No further action', YJB Case Management Guidance, updated January 2024, <https://bit.ly/4bBBTRQ>

41 'How to use out-of-court disposals – No further action', YJB Case Management Guidance, updated January 2024, <https://bit.ly/4bBBTRQ>

42 'Outcome 22 Guidance', National Police Chiefs' Council, September 2022, page 3

43 'Outcome 22 Guidance', National Police Chiefs' Council, September 2022, page 6

44 'Outcome 22 Guidance', National Police Chiefs' Council, September 2022, page 3

45 'Restorative justice', CPS Legal Guidance, February 2023, <https://bit.ly/43OV60h>

46 'How to use out-of-court disposals – How to involve victims in out-of-court disposals', YJB Case Management Guidance, updated January 2024, <https://bit.ly/4bBBTRQ>

# Repeat OOCs

Previous convictions or OOCs do not preclude the use of another OOC. There is no limit on the number of times a child can receive a particular diversion disposal, nor is there a requirement for children to have a more intensive outcome for subsequent offences. YJB guidance recognises that interventions can take time to have an impact. It suggests that in instances of repeat but low level offending, children should have more than one opportunity to take advantage of diversion.<sup>47</sup>

'Excessive' repeated use of OOCs should be avoided. A locally agreed process around repeated use should be developed, taking into account factors such as age, maturity, need, context of the offending, the victims' wishes and the time since the last diversion.<sup>48</sup> However, each case should be considered on an individual basis.<sup>49</sup>

There is more detailed guidance specifically in relation to YCCs.<sup>50</sup> This suggests that an additional YCC may be appropriate where:

- there has been a sufficient lapse of time to suggest that a previous caution or conviction has had a significant deterrent effect
- the current offence is not similar or is unrelated to any previous offence
- it is the best outcome for the victim and offender, dependent on the circumstances of the individual case
- the offender is willing to comply with possible conditions and has previously complied with interventions.

A second YCC should not be given for the same or similar offence unless there are exceptional circumstances indicating that it may be appropriate, for example, where the previous YCC was more than two years earlier.<sup>51</sup> It will generally not be appropriate to give a second YCC if the offender failed to comply with the conditions of the previous YCC.<sup>52</sup>

47 'How to use out-of-court disposals – Repeated use of diversion for the same child', YJB Case Management Guidance, updated January 2024, <https://bit.ly/4bBBTRQ>

48 'How to use out-of-court disposals – Repeated use of diversion for the same child', YJB Case Management Guidance, updated January 2024, <https://bit.ly/4bBBTRQ>

49 'How to use out-of-court disposals – Repeated use of diversion for the same child', YJB Case Management Guidance, updated January 2024, <https://bit.ly/4bBBTRQ>

50 'Code of practice for youth conditional cautions', MOJ, March 2013, para 6.4, <https://bit.ly/41xma1n>

51 'Code of practice for youth conditional cautions', MOJ, March 2013, para 6.6, <https://bit.ly/41xma1n>

52 'Code of practice for youth conditional cautions', MOJ, March 2013, para 6.6, <https://bit.ly/41xma1n>



# The Child Gravity Matrix

The Child Gravity Matrix is a decision-making tool for officers considering the most appropriate outcome or disposal for children who offend. It is important to note that the Matrix should be used as a guide only and each case should be considered on an individual basis and alongside applicable law and guidance.<sup>53</sup>

Score	Outcome that will normally result
1	No Further Action where no intervention is applied, eg Outcome 20 or 21 (although officers should consider voluntary offer of intervention)
2	Informal OOC, such as Triage, Outcome 20, Outcome 21 or a Community Resolution
3	Youth Caution or Community Resolution
4	Youth Conditional Caution
5	Charge and should be referred to the CPS for a decision

The Matrix should be used in a step-by-step basis as follows:

**STEP 1:** The first step is to locate the offence in the Offence Specific table.<sup>54</sup> The most common offences are set out in the Matrix alongside a starting point gravity score from 1 to 5. If the offence is not shown, it should be dealt with in accordance with the Matrix's general principles.<sup>55</sup>

**STEP 2:** The Matrix contains aggravating and mitigating factors that are specific to the offence. These factors can be used to raise or lower the starting point score.

**STEP 3:** The General Factors for All Offences table<sup>56</sup> allows decision makers to apply any aggravating or mitigating factors to the circumstances of all offences. These can be used to raise or lower the score by one, irrespective of how many general factors are present, and they may balance each other out. Adjustments to the gravity score should be recorded and evidenced by the decision maker in their rationale.<sup>57</sup>

**STEP 4:** Decision makers must also consider any vulnerabilities the child may have that would act as a mitigating factor. These are set out in the Vulnerability Factor table<sup>58</sup> and include mitigating factors such as mental health difficulties, adverse childhood experiences (ACEs) and care experience. Positive or negative engagement with previous intervention can also impact the decision. Again, these factors can result in the adjustment of the gravity score.

**STEP 5:** The Matrix suggests that, after considering all aggravating and mitigating factors, decision makers do not adjust the starting point score by more than one point. Decision makers should then consult the Final Gravity Score table (summarised here).<sup>59</sup>

Any indictable only offences must be referred to the CPS for a charging decision. The decision to authorise a YCC in an indictable only case will only happen in exceptional circumstances and must be approved by a Deputy Chief Crown Prosecutor.<sup>60</sup> Where a case has scored 5 and the evidential test is met but it has been deemed not to be in the public interest, the case must also be referred to the CPS.

53 'Child Gravity Matrix v2.3', National Police Chiefs' Council, updated 2025, page 3

54 'Child Gravity Matrix v2.3', National Police Chiefs' Council, updated 2025, pages 15–59

55 'Child Gravity Matrix v2.3', National Police Chiefs' Council, updated 2025, page 3

56 'Child Gravity Matrix v2.3', National Police Chiefs' Council, updated 2025, page 11

57 'Child Gravity Matrix v2.3', National Police Chiefs' Council, updated 2025, page 10

58 'Child Gravity Matrix v2.3', National Police Chiefs' Council, updated 2025, page 12

59 'Child Gravity Matrix v2.3', National Police Chiefs' Council, updated 2025, page 13

60 'Conditional cautioning: Youths – DPP guidance', CPS, November 2019, paras 5.1–5.2, <https://bit.ly/4itGo2Y>

61 'Assessing the needs of sentenced children in the Youth Justice System 2019/20', YJB and MOJ, 2021, <https://bit.ly/4idJJ6G>. This report found that of all sentenced children in 2019/20, 90% of sentenced children were assessed to have safety and wellbeing needs; 72% were assessed to have mental health concerns; 71% were assessed to have speech, language and communication concerns; and 57% were assessed to be a current or previous child in need

62 'Child Gravity Matrix v2.3', National Police Chiefs' Council, updated 2025, page 3, emphasises that the Matrix 'is to be used as a guide only and each case should be looked at on an individual basis'

## Practical tips

- The Matrix's specific offence-related factors and the general factors for all offences mean it is critical to gather as much information as possible about your child client and the circumstances around the offence to inform your representations.
- The Vulnerability Factor table is a useful resource for factors in your child client's case that decision makers have to consider when making their decision. Mental health difficulties, ACEs and communication difficulties among children in the youth justice system are much higher than the overall child population<sup>61</sup> and these may apply to your child client.
- While the Matrix can be a helpful tool, it is important to remember that it is a guide only. If there are compelling reasons why your child client is deserving of an OOC, this should still be pursued. OOCs are available in principle for all offences and each case must be decided on an individual basis.<sup>62</sup>



## The Child Information Form ('CIF')

The Child Information Form requires both the investigator and prosecutor to consider the specific circumstances of the child by collating the information known by police and other relevant agencies about the child's life.<sup>63</sup> Officers are required to fill out the CIF when the child has not been previously charged with an offence, they are a Child Looked After, Child in Need or a Care Leaver under 18, or the offence is a sexual offence or a grave crime.<sup>64</sup>

However, it appears that the child and their representative have been excluded from the 'relevant agencies' involved in collating information that is sent in the CIF to prosecutors to review even though they are supposed to consider 'all circumstances surrounding the offence, and the circumstance of the child'. This oversight appears to be in breach of the Child First approach referred to in the CIF itself.<sup>65</sup>

## Practical tips

Representatives for the child should request an opportunity to input into the CIF. This request should include:

- Any relevant information that the child and their representative think the prosecutor should consider when making a charging decision.
- Correcting any information already recorded that the child or their representative disagree with due to inaccuracy or contention.
- Reminding the police that a central tenet of a Child First approach, referred to in the CIF, is collaborating with children. The NPCC Children and Young Persons Policing Strategy 2024-2027 commits to 'involve children and young people in decisions that impact them' in line with Article 12 UNCRC.<sup>66</sup> The CIF is not in line with a Child First or Child Centred approach if the child and their representative have been excluded from input and review of the CIF before it is sent to the CPS.
- Reminding the police and the CPS that according to the CIF itself failure to consider all of the circumstances 'may result in proceedings for judicial review'.<sup>67</sup>
- Ensuring that a copy of the finalised form is provided to the child's representative.

63 'Child Gravity Matrix v2.3', National Police Chiefs' Council, updated 2025, page 5

64 Child Information Form v1, Crown Prosecution Service, page 1

65 Child Information Form v1, Crown Prosecution Service, page 1

66 'Children and Young Persons Policing Strategy 2024 – 2027', National Police Chiefs' Council, page 8

67 Child Information Form, Crown Prosecution Service, page 1

# Knife offences

There are CPS Guidelines on the Cautioning and Charging of Knife Crime Offences. It is important to note that these guidelines, much like the Matrix, are intended as a guide only and that each case should be considered on an individual basis.

For children under 16, the Guidelines suggest a YCC as a starting point, as long as they:

- have not previously been involved in any violent offending;
- have not previously been involved in offences involving knives or weapons; and
- are not charged with a knife-enabled offence other than simple possession.<sup>68</sup>

Alternative, more informal, OOCd disposals are available, but the Guidelines suggest that these are only appropriate in truly exceptional cases.<sup>69</sup>

For children aged 16 and 17, the Guidelines' starting point is to charge, unless there are exceptional circumstances that would make it appropriate to issue a YCC.<sup>70</sup>

The Child Gravity Matrix notes that decision makers do have the discretion to deviate from the gravity score but must record their rationale fully when they do this.<sup>71</sup> The Matrix provides specific offence-related aggravating and mitigating features for knives. These are as follows<sup>72</sup>:

Aggravating feature	Mitigating feature
Circumstances of possession	Instant arming
Concern caused to member(s) of public	Offence committed due to bullying/peer pressure/coercion/manipulation
Consider knife type	Consider knife type
	Evidence of exploitation

## Practical tips

- Knife offences do not automatically lead to a charge, even for those aged 16 and 17. The exceptional circumstances that would make it appropriate to issue a YCC can relate to either the offence or the child offender. It is therefore critical that you find out information about the background of your child client and the circumstances around the offence as early as possible so that this can be used to argue against prosecution.
- Many knife offences are committed in the context of the child being subject to bullying, peer pressure or criminal exploitation. While the latter may constitute a defence, these circumstances are recognised mitigating factors that tend towards an OOCd for your child client.

68 'Guidelines on the cautioning and charging of knife crime offences', CPS and National Police Chiefs' Council, July 2023, page 4, <https://bit.ly/41oLkil>

69 'Guidelines on the cautioning and charging of knife crime offences', CPS and National Police Chiefs' Council, July 2023, page 4, <https://bit.ly/41oLkil>

70 'Guidelines on the cautioning and charging of knife crime offences', CPS and National Police Chiefs' Council, July 2023, page 3, <https://bit.ly/41oLkil>

71 'Child Gravity Matrix v2.3', National Police Chiefs' Council, updated 2025, page 9

72 'Child Gravity Matrix v2.3', National Police Chiefs' Council, updated 2025, page 35

# Sexual offending

Children can commit offences of a sexual nature where they are still learning about healthy and unhealthy boundaries around sexual behaviour. OOCs can demonstrate a recognition that there is a fine line between sexual experimentation and offending, while acknowledging the seriousness of the offences and the need for intervention. Diversion avoids some of the considerable impact of a conviction for sexual offending on a young person's criminal record (explored in more detail below). It allows for therapeutic, supportive and rehabilitative intervention to address the likelihood of further offending.

CPS guidance recognises that it was not Parliament's intention to punish children unnecessarily or for the criminal law to intervene where it was wholly inappropriate.<sup>73</sup> In the context of 'sexting', outcome 21 was developed by the College of Policing for an incident where a child has sent a naked photo to another child and there is no

evidence of exploitation, grooming, profit motive, malicious intent or persistent behaviour.<sup>74</sup>

In the Matrix, a number of sexual offences have a score that corresponds to a starting point of an OOC. Practitioners should also be conscious that many sexual offences committed by children are often as a result of themselves being sexually exploited or coerced.

Despite the benefits of diversion, practitioners should be aware that cautions for offences in Schedule 3 to the Sexual Offences Act 2003 can automatically lead to notification requirements (also known as the 'sex offenders register'). They could also lead to the person being barred from working with children or vulnerable adults. This can be an argument for a more informal OOC, which still allows for the intervention to take place. You can find further information regarding representing a child alleged to have committed sexual offences in our legal guide, 'Children facing allegations of sexual offending'.

73 'Rape and sexual offences – Chapter 13: Sexual offences and youths', CPS Legal Guidance, May 2021, <https://bit.ly/4iiOPCN>

74 'Briefing note: Police action in response to youth produced sexual imagery ("sexting")', version 1.0, College of Policing, November 2016, paras 19–26, <https://bit.ly/4kucPjA>

# Traffic offences

Many low level traffic offences are brought to court in order for penalty points to be administered. The Matrix makes clear that decision makers should consider whether appropriate low level traffic offences could be referred to a panel for consideration of an informal OOC, as an alternative to penalty points.<sup>75</sup>

<sup>75</sup> 'Child Gravity Matrix v2.3', National Police Chiefs' Council, updated 2025, page 9

# Decision-making: who decides and when?

## Police station and pre-charge

At the police investigation stage, the police can make the decision about administering an OOCd, except in certain cases where the police refer the case to prosecutors for a charging decision.<sup>76</sup> For example, indictable only offences must be referred to prosecutors.

A police decision to administer an OOCd should be made as soon as possible,<sup>77</sup> bearing in mind the importance of joint decision-making.

YJB guidance suggests that for diversion to be effective, it should happen as soon as possible after the offence occurs, usually within 4 weeks of referral to decision makers.<sup>78</sup>

The YJS and the police should have a joint protocol setting out locally agreed practice with regards to OOCds in their area.<sup>79</sup> This protocol should establish and embed joint decision-making practices.

## Practical tips

- If you are representing a child at the police station and consider that they may be eligible for an OOCd, you should speak to the Officer in Charge as early as possible about whether they would be willing to consider an OOCd. This can be done before you speak to your child client about the evidence and their account and without providing an indication of your child client's position. It can then form part of your advice in consultation.
- Legal advisors at the police station should familiarise themselves with the Child Gravity Matrix and consider whether the child might be best advised to make admissions during their interview in order to be eligible for the more formal OOCds (in appropriate cases). However, a cautious approach is required since children are easily incentivised to admit guilt (this is explored further below) and it will not always be appropriate or necessary.
- Legal representatives can make written representations in favour of an OOCd to be shared with the relevant decision maker once a child has been released on bail or is under investigation pending a decision. These can be very influential.

## Joint decision-making panels

Joint decision-making panels (or 'bureau' in Wales) provide a multi-agency forum for decision-making. They bring together key partners to determine the most appropriate disposal. They are required to consider information about the offence, the child's circumstances and needs, and the victim's views. As a minimum, the panel should comprise of the following:

- a police decision maker
- a YJS team manager
- a representative from children's social care and education.

It is also good practice to include a range of partners, such as health services, early help services and a victim representative. Other professionals can be included on a one-off or permanent basis. Joint decision-making between the police and the YJS should take place, but in instances where there is disagreement, the final decision rests with the police.<sup>80</sup>

The child and/or parents should not be present, but the YJS should ensure that they have spoken with the child and their carer(s) to make sure they are engaged in the process. The YJS should represent the voice of the child in the discussion.<sup>81</sup> Legal representatives can put forward representations to be heard at a panel by submitting them to the YJS in advance.

<sup>76</sup> See 'Director's guidance on charging', sixth edition, December 2020, paras 4.1–4.4, <https://bit.ly/41SiBhF>, for a more detailed breakdown of police decision-making powers

<sup>77</sup> 'Conditional cautioning: Youths – DPP guidance', CPS, November 2019, para 7.1, <https://bit.ly/4itGo2Y>

<sup>78</sup> 'How to use out-of-court disposals – The importance of timely decisions', YJB Case Management Guidance, updated January 2024, <https://bit.ly/4bBBTRQ>

<sup>79</sup> 'How to use out-of-court disposals – How to embed joint decision-making arrangements', YJB Case Management Guidance, updated January 2024, <https://bit.ly/4bBBTRQ>

<sup>80</sup> 'Child Gravity Matrix v2.3', National Police Chiefs' Council, updated 2025, page 14

<sup>81</sup> 'How to use out-of-court disposals – How to embed joint decision-making arrangements', YJB Case Management Guidance, updated January 2024, <https://bit.ly/4bBBTRQ>

# Post-charge

Prosecutors are required to review cases as to whether they might be more appropriately dealt with by way of an OOC. <sup>82</sup> Once a child has been charged, it is ultimately the prosecutor's decision, following consultation with the YJS, whether to offer a YCC. <sup>83</sup> This often occurs when a child has given a 'no comment' interview, although it may also happen in cases where more information as to the public interest comes to light following the charge being made.

Consultation with the YJS should be conducted before the offer is made to ensure:

- that the child is suitable to undertake the required conditions;

- the child understands the nature of the proposed outcome; and
- the conditions are likely to have a positive impact on offending behaviour. <sup>84</sup>

For children who did not make an admission in their police interview, an admission of guilt is essential before a youth caution or YCC can be given. These usually take the form of admissions under section 10 of the Criminal Justice Act 1967.

Once the parties have agreed to either administer an OOC – or the prosecution have agreed to consider representations as to whether the child is eligible for one – the proceedings should be adjourned before a plea is taken.

## Practical tips

- If you are representing your child client at court at a first appearance and you consider that they might be eligible for an OOC, you should speak to the prosecutor as soon as possible. You should also liaise with the YJS to ask for their views.
- Make an adjournment application in court and ask for a plea not to be taken, so that you can write representations and the Reviewing Lawyer can undertake further review.
- At court, you will want to ask for a copy of the Child Information Form, to ensure that the circumstances of your client have been accurately recorded by the police and the CPS when making their decision. You should check the accuracy with your client.
- The representations, both oral and written, should use the law and guidance set out in this guide to highlight the factors relevant to your child client's case and their background circumstances. The representations should argue that a prosecution is not in the public interest and that it would be better served by an OOC.
- If your adjournment application is successful and the Reviewing Lawyer has agreed to consider whether an OOC is appropriate, the prosecutor may ask you to fill out a Section 10 admission with your child client at court. However, there is no requirement that an admission must be made by the child before the Reviewing Lawyer decides whether an OOC should be given. If an admission is filled out, make sure that your child client understands the implications of providing it.
- If your child client is charged by postal requisition, you should get ahead of the issue by considering the possibility of an OOC at least a few days before the first appearance. Contact the Reviewing Lawyer to ask them whether an OOC might be considered. Speak to your child client ahead of time about the plea they are likely to give and gather background information about them that may be relevant to the public interest in not prosecuting. This increases the chances that you will be able to adjourn the case at the first appearance to allow a proper review to be undertaken.
- Decision makers are required to provide reasons for their decisions. Decisions to prosecute can be challenged by proceedings for judicial review. <sup>85</sup> The grounds for this can include that the prosecutor has failed to follow legal guidance <sup>86</sup> or that there was insufficient inquiry into the circumstances and general character of the accused. <sup>87</sup>

<sup>82</sup> 'Code of Practice for Youth Conditional Cautions', MOJ, para 6.3, <https://bit.ly/4iv57UG>

<sup>83</sup> 'Conditional cautioning: Youths – DPP guidance', CPS, November 2019, para 8.1, <https://bit.ly/4itGo2Y>

<sup>84</sup> 'Conditional cautioning: Youths – DPP guidance', CPS, November 2019, para 15.1.1, <https://bit.ly/4itGo2Y>

<sup>85</sup> 'Judicial review of CPS prosecuting decisions (Appeals)', CPS, updated July 2024, <https://bit.ly/428mKEd>

<sup>86</sup> R (on the application of E, S and R) v DPP [2011] EWHC 1465 (Admin), <https://bit.ly/4kufda2>

<sup>87</sup> R v Chief Constable of Kent and Another ex p L, R v DPP ex p B [1991] 93 Cr App R 416

# OOCDs and criminal records

OOCDs received in childhood are different to convictions when it comes to their impact on criminal records. This is an important feature in removing

the 'tainting effect' of a child coming into contact with the criminal justice system and allowing them to move on from offending.

## DBS checks and job applications

- Informal OOCDs, such as community resolutions and outcomes 20, 21 and 22, do not come under the Rehabilitation of Offenders Act 1974, so they are never considered 'spent' or 'unspent'. Informal OOCDs will never be automatically disclosed in DBS checks.
- Youth cautions will not be automatically disclosed in DBS checks (basic, standard or enhanced). They are immediately filtered from DBS checks when they are administered. They also become immediately 'spent' once they are administered. The recipient would never have to declare them to an employer as part of their application, unless they are applying for an occupation that is an exception under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975.

- YCCs become spent and filtered after 3 months from the date they are administered, or when the conditions of the caution are met.<sup>88</sup> After this, they will not be automatically disclosed.

Although they will never be automatically disclosed, the police retain the discretion to disclose non-conviction information, including formal and informal OOCDs, on Enhanced DBS checks. The police must only do so where the information is relevant, it ought to be disclosed and disclosing it would be proportionate, balancing the risk to the public and the rights of the individual.<sup>89</sup> They use this power sparingly. You should seek legal advice if an OOCD is disclosed in an Enhanced DBS check.

## Other impacts

- Formal OOCDs remain on the Police National Computer for the rest of the person's life. This means if they are prosecuted for another offence, the record will be produced for a criminal court and will include the youth caution or youth conditional caution.
- Formal OOCDs can also affect an immigration application, for example, for leave to remain or for citizenship.
- A caution may be disclosed in other legal proceedings, such as family law proceedings. It may also be disclosed to other professionals, such as social services, for safeguarding reasons.
- Formal OOCDs may affect travel to other countries. Each country has its own rules about criminal records and you would need to seek legal advice about the country you wish to travel to.<sup>90</sup>

<sup>88</sup> Para 1, Sched 2, Rehabilitation of Offenders Act 1974

<sup>89</sup> For further information please see: 'Quality Assurance Framework: An applicant's introduction to the decision-making process for Enhanced Disclosure and Barring Service checks', Standards and Compliance Unit, March 2014, <https://bit.ly/4buJSQt>

<sup>90</sup> For further details see YJLC's Criminal Records info sheets (<https://bit.ly/4iypWyK>) and Unlock (<https://bit.ly/41LaYOE>)



# The dangers of incentivising admissions

While diversion is often a beneficial outcome for a child compared to prosecution, practitioners should be aware of the risk of children being incentivised to admit to offences that they may not have committed. Where there is limited evidence against the child, strong public interest grounds against criminalisation and where the child clearly denies the offence, it will not be appropriate to advise a child to admit guilt or accept responsibility. Research suggests that children are more willing than adults to admit guilt when they have not committed a crime or do not know whether they have.<sup>9192</sup>

Many OOCs require an admission of guilt before they can be administered. However, not all require this and there has been some movement towards a more flexible approach. Community resolutions have moved from requiring an admission of guilt to the lesser 'acceptance of responsibility'. Outcomes 20, 21 and 22 do not require either and can be given where intervention has been undertaken with no admission or acceptance of responsibility.

YSB guidance states that under no circumstances should anyone suggest that a child admit to an offence solely to receive a caution and avoid attending court.<sup>93</sup> Practitioners should be alive to this issue. It should be made clear to children and their appropriate adult that they should only admit to an offence where they are guilty of it.

91 'Juveniles' competence to stand trial: A comparison of adolescents' and adults' capacities as trial defendants', T Grisso et al., 2003, 27 Law and Human Behavior 333

92 'Guilty pleas in children: Legitimacy, vulnerability, and the need for increased protection', R K Helm, 2021, Journal of Law and Society, vol 48, issue 2, pages 179–201

93 'How to use out-of-court disposals – Youth caution', YJB Case Management Guidance, updated January 2024, <https://bit.ly/4bBBTRQ>

# Racism

The Lammy Review concluded that children with a Black or mixed ethnicity are disproportionately represented at all stages of the criminal justice system, including diversion.<sup>94</sup> Research has indicated a number of reasons for this:

- Diversionary outcomes frequently require an admission of guilt and, due to a lack of trust in the system by children from minority ethnicity backgrounds, those children may be less likely to admit to an offence at an early stage. For example, data suggests that 37% of Black children 'completely distrust' or 'somewhat distrust' the police, compared with 11% of white children.<sup>95</sup>
- Children from Black backgrounds in particular are more heavily policed and subject to enhanced surveillance, including higher levels of stop and search.<sup>96</sup> This can lead to repeat offences being recorded and a corresponding increased prospect that diversionary avenues will be blocked.<sup>97</sup>
- Assessments of remorse and acceptance of responsibility may be subjective and shaped by broader assumptions such as age, race/ethnicity, gender and class.<sup>98</sup> Practitioner perceptions of family engagement, eg families of a Gypsy/Roma/Traveller background, can lead to conclusions that they will not be supported to engage with diversion.<sup>99</sup>
- Black children, in particular, are more likely to be subject to 'adulthoodification', where they are perceived as more mature and less vulnerable than their chronological age would suggest.<sup>100</sup> Accordingly, there is a greater chance of them being treated as if they were adults when they come into contact with the youth justice system, reducing opportunities for diversion. This may occur due to perception not only from prosecutors and YJS workers, but also by their own legal representative.

94 'Lammy Review: An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the criminal justice system', 2017, <https://bit.ly/3DLCofp>

95 'Forgotten voices: Policing, stop and search and the perspectives of Black children', A Evans, P Olajide, I Ross and J Clements, Crest, 2022, <https://bit.ly/428Zhmk>

96 Youth Justice Statistics: 2023 to 2024, Ministry of Justice, [bit.ly/420GecE](https://bit.ly/420GecE) Black children were involved in 19% of stop and searches, 13 percentage points higher than the proportion of Black 10 to 17-year-olds.

97 'Equal diversion? Racial disproportionality in youth diversion', A Ofori, B Jolaoso, C Robin-D'Cruz and S Whitehead, Centre for Justice Innovation, 2021, <https://bit.ly/41xlQ1v>

98 'Equal diversion? Racial disproportionality in youth diversion', A Ofori, B Jolaoso, C Robin-D'Cruz and S Whitehead, Centre for Justice Innovation, 2021, page 11, <https://bit.ly/41xlQ1v>

99 'Equal diversion? Racial disproportionality in youth diversion', A Ofori, B Jolaoso, C Robin-D'Cruz and S Whitehead, Centre for Justice Innovation, 2021, page 2, <https://bit.ly/41xlQ1v>

100 For example, see: 'Adulthoodification bias within child protection and safeguarding', J Davis, HM Inspectorate of Probation, 2022, <https://bit.ly/429am6T>

# Looked after and care experienced children

Looked after children make up a disproportionate number of those children who are prosecuted.<sup>101</sup> The decision to prosecute looked after children for low level offences is recognised in CPS guidance as a 'major decision'. It is a decision that must be taken under the supervision of a youth justice specialist with full consideration of the specific and unique circumstances of this group of children.<sup>102</sup>

Prosecutors are also required to take into account the National Protocol to Reduce the

Unnecessary Criminalisation of Looked-After Children and Care Leavers.<sup>103</sup> Care experience is recognised as a vulnerability in the Child Gravity Matrix<sup>104</sup> and should be included in the Child Information Form that is completed when cases are sent by the police to the CPS. For further information on representing care-experienced children please see our legal guide, 'Dare to care: Representing care experienced young people'.

<sup>101</sup> 'Children as suspects and defendants', CPS guidance, July 2023, <https://bit.ly/4ixXYmH>

<sup>102</sup> 'Children as suspects and defendants', CPS guidance, July 2023, <https://bit.ly/4ixXYmH>

<sup>103</sup> 'The national protocol on reducing unnecessary criminalisation of looked-after children and care leavers', MOJ, Department for Education and Home Office, November 2018, <https://bit.ly/4hxmZ01>

<sup>104</sup> 'Child Gravity Matrix v2.3', National Police Chiefs' Council, updated 2025, page 12

# OOCDs and child criminal exploitation

The use of OCDs for cases where there are concerns around child criminal exploitation is a complicated issue. The Child Gravity Matrix states that exploitation or coercion is a mitigating factor that tends towards diversion.

However, practitioners should be very careful in recommending this course of action. Where there are exploitation concerns, the child may well have a defence under section 45(4) of the Modern Slavery Act 2015 and there may be strong public

interest arguments for 'no further action'. The risk of an admission, even for an OCD, is particularly acute as the child may not understand that the defence exists and may be scared to attend court or to talk to the police due to fear of their exploiters. Additionally, CPS guidance provides that, in relation to the plea, the outcome of the National Referral Mechanism process should be concluded. For further information, please see our legal guide, 'Child criminal exploitation'.

# OOCDs and turning 18

A suspect who offends as a child but subsequently turns 18 while awaiting a decision will no longer be eligible for any of the youth formal or informal OOCDs. Likewise, they will not be subject to the general presumption of diversion. There is no guarantee that they should receive the equivalent adult OOCD if they would have been eligible for youth diversion.

Therefore, if your child client is approaching their 18th birthday, it is critical that you consider their case and whether they may be eligible for an OOCD. Delay has an impact on the young person's criminal record as adult disposals do not become spent and filtered immediately, unlike youth disposals. For more details, see our legal guide 'Turning 18' and the YJLC Criminal Records info sheets.

# Appendix

## Disposals Table from the Matrix<sup>105</sup>

Disposals	No Further Action				Community Resolution	Youth Caution	Youth Conditional Caution	Charge
HO Outcome Codes	All other relevant NFA codes	Outcome 20	Outcome 21	Outcome 22	Outcome 8	Outcome 2	Outcome 2	Outcome 1
Formal Conviction (child becomes FTE )	No	No	No	No	No	Yes	Yes	Yes
Disclosed on DBS	Not automatically disclosed	Not automatically disclosed	Not automatically disclosed	Not automatically disclosed	Not automatically disclosed	Not automatically disclosed	Disclosed on all levels of check for a maximum of three months	Yes (Dependent on Court Outcome)
Requires acceptance of responsibility or admission of guilt	No	No	No	No	Acceptance of responsibility	Admission of guilt	Admission of guilt	No
Can be used for deferred prosecution	No	No	No	Force Decision	No	Force Decision	Force Decision	Force Decision
Diversions / education activities to be Completed	No	Yes-but voluntary and by another agency/body	Yes- but voluntary	Yes**	No- but can be voluntary	No- but can be voluntary	Yes	Yes
Stage of GM	1	1/2	1/2	2/3/4	2/3	3	4/5	5
Joint decision with YJS	No	No, but recommended	No, but recommended	Yes	No, but recommended for 2nd CR or above	No, but recommended Yes for 2nd YC	Yes	No
Restorative Justice	N/A	Yes	Yes	Yes	Yes	Yes	Yes	Yes

## YJLC legal guides

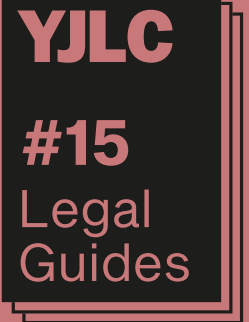
- ‘Child criminal exploitation’
- ‘Children facing allegations of sexual offending’
- ‘Dare to care: Representing care experienced young people’
- ‘Turning 18’
- All YJLC legal guides are available at [bit.ly/426ayAF](https://bit.ly/426ayAF)

<sup>105</sup> ‘Child Gravity Matrix v2.3’, National Police Chiefs’ Council, updated 2025, page 14

#15

## Out of Court Disposals

Written by Robbie Eyles in collaboration with Katya Moran and Laura Cooper at Youth Justice Legal Centre. With thanks to Ruth McGregor-Hamann (YJLC).



#01  
Turning 18

#02  
Intermediaries for  
child defendants

#03  
Child Criminal  
Exploitation

#04  
Criminal  
Behaviour Orders

#05  
Trauma Informed  
Lawyering

#06  
Criminal Practice  
Directions

#07  
Effective  
Participation

#08  
Police bail  
and remand

#09  
Court Bail  
and remand

#10  
Anonymity

#11  
Sexual allegations

#12  
Sexting

#13  
DoLs

#14  
Dare to care

#15  
Out of court  
disposals

#16  
Safeguarding  
First

### Youth Justice Legal Centre

[yjlc.uk](http://yjlc.uk)

The Youth Justice Legal Centre (YJLC) is the centre of excellence for youth justice law in England and Wales. We share knowledge, bring together expertise, and promote innovation to support a community of practitioners working to achieve better outcomes for children in the justice system. YJLC provide:

- Expert guidance on youth justice law to protect and uphold children's rights within the legal system;
- A comprehensive website featuring legal resources, best practice guides, and up-to-date information for lawyers, judges, magistrates, youth justice services, professionals, children, and families;
- Specialist training on youth justice issues, designed for both legal professionals and those working with children in across the sector;
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- Specialist legal advice for children, their families, youth justice professionals, the judiciary, and legal practitioners.