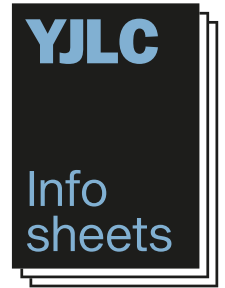


Unlawful Use of Remands to Youth Detention



Youth Justice Legal Centre (YJLC) is concerned that some Youth Courts are authorising remands to Youth Detention Accommodation (YDA) of Looked After Children (LAC) where Local Authorities (LA) are informing the Youth Justice Services (YJS) that they cannot find accommodation for the child in question and so neither a bail package nor a Remand to Local Authority Accommodation (RLAA) package is made.

YJLC believes this practice is unlawful- we urge youth justice practitioners, decision-makers and court staff to ensure the local authority accommodates the child- it is their statutory duty to do so.

Remanded to YDA on “welfare grounds”

Shane’s Case is a combination of commonly seen examples by the Nuffield Family Justice Observatory and the Youth Custody Service (YCS)

Shane (15) was removed from his birth parents as a baby and adopted when he was a year old. Concerns about his behaviours started to escalate when he was at primary school where he was temporarily excluded. His adoptive parents began to struggle with his behaviour and he went into care under s.20. Shane had a series of placements in residential care, all of which broke down because the home could not manage his behaviour. He can be verbally and physically aggressive, has assaulted staff, and damages property. He has self-harmed, taken overdoses of medication, and has said he wants to kill himself. He smokes cannabis and drinks alcohol. He was settled for several months in a children’s home, with a deprivation of liberty in place, until an incident when he attacked staff and set fire to furniture, at which point the placement gave notice. The local authority has struggled to find a suitable new placement for Shane and has placed him in a two-bed rental flat under a DoL order while it continues to search for a registered placement. The restrictions authorised include 3:1 supervision. Shane is not permitted to leave the placement, and physical restraint will be used as a last resort if he tries to do so. He has been living in the rental flat for two months now and the local authority has been unable to find an alternative placement. The police are called for an assault on one of the staff members and the staff member presses charges. Shane is held in the cells at the police station and damages the cell receiving an additional charge of criminal damage. He is taken to the youth court to face relatively minor criminal offences, that would not normally warrant a custodial remand. The Local Authority say they are unable to place Shane given the allegations.

In court, the Local Authority tells the Youth Justice Service they are unable to provide suitable accommodation for the child. Children on DoLs can find themselves in accommodation such as caravans, boats or small rooms with guards. Shane is then remanded to Youth Detention Accommodation (YDA) by the Court. The reasons recorded on the ‘common platform’ are **“Remanded on welfare grounds”**

The placement then becomes the responsibility of the Youth Custody Service who will have to determine the placement, often in a Secure Training Centre (STC). STC staff are not trained for children with this level of trauma and may respond with shields and restraint.

How to ensure the local authority accommodates the child when it is their statutory duty to do so.

In 2025 the Ministry of Justice published a [Remand Concordat](#), signatories include the Department for Education (who oversee children’s services). The concordat is ‘a shared commitment by partners to follow a joint approach throughout the remand process, working together in the best

interest of the child.’ The concordat supports key agencies, including children’s services, by summarising their responsibilities in a clear, accessible way to prevent ambiguity.’

According to **the Concordat** ‘The legal framework for youth remand is clear’

Bail, for child defendants, can be refused if it is for the child defendant's own welfare¹.

If bail is refused the next step to consider for child defendants is a **Remand to Local Authority Accommodation**. The Concordat states 'LAs have a statutory duty to make sure that there is sufficient provision in their area to meet the needs of children in their care.'

Youth Detention Accommodation - Legislation does not permit the courts to remand a child to YDA **unless** either s.98 or s.99 of LASPO is met. If bail is refused on welfare grounds unless the 'strict criteria'² of s.98 (necessity) or s.99 (history) LASPO are met a child defendant must be remanded to local authority accommodation (RLAA) rather than (YDA). The Remand Concordat states 'The court must only remand a child to youth detention accommodation when certain conditions are met (section 98 and 99 LASPO 2012)'.

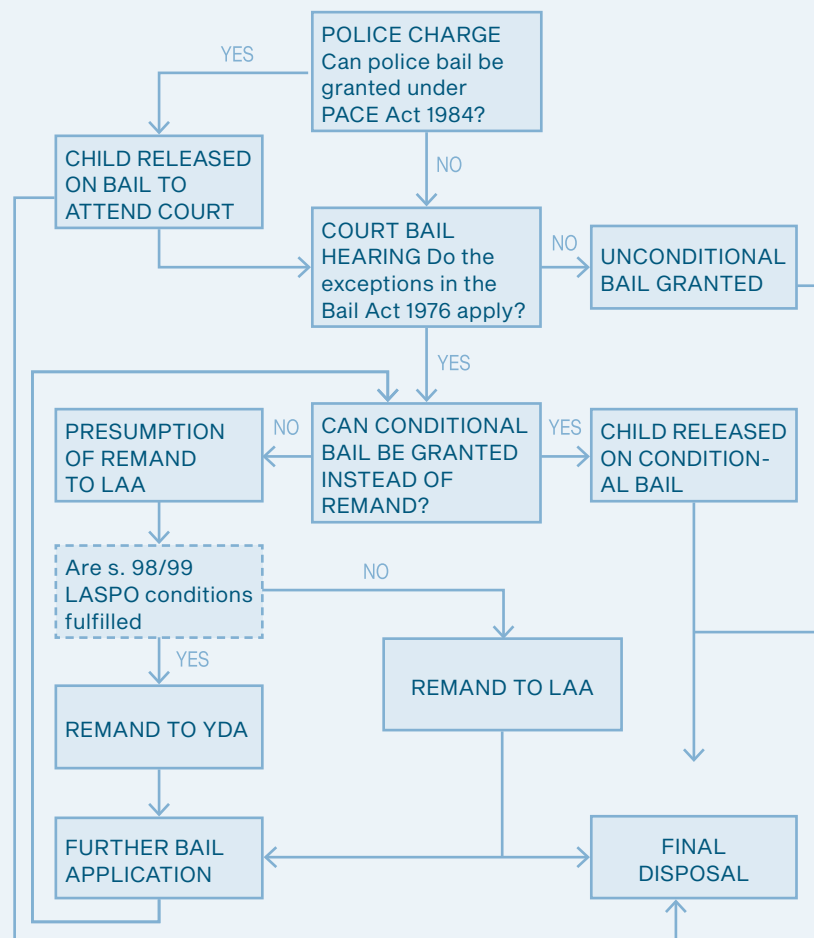
It is not sufficient that the Local Authority state they can't find suitable accommodation for a child they look after – the reason DoLs orders exist is for this purpose. A child cannot be remanded to YDA on welfare grounds.

What responsibility does each actor have to ensure unlawful remands of children do not take place?

1. **The Court** must explain to the child the reason for their custodial remand (the Court can be made aware that remand to YDA cannot take place unless it is a s.98 or s.99 remand – not for welfare)
2. **The Legal Advisor or Court Associate** must agree the wording of reasons for remand with the bench or judge, record the reasons for the custodial remand on Common Platform and they must also write these reasons in ordinary language in a letter to be given to the child, the YOT and the child's lawyer. (The Legal Advisor / Court Associate should be aware that a remand to YDA can only take place if s.98 or s.99 steps have been met – not on welfare grounds).
3. **The Child's Defence Lawyer** must understand that although bail can be refused on welfare grounds the child can only be remanded to YDA if the s.98 (sentencing condition - very likely that the child will be sentenced to a custodial sentence) or s.99 (history condition - at least 1 offence must be imprisonable and there must be a recent and significant history of absconding while subject to custodial remand on or a recent and significant history of committing imprisonable offences on bail or custodial remand) of LASPO are met.

See the flowchart below provided by the Ministry of Justice in the 2025 [Remand Concordat](#)

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



The defence lawyer should be prepared to explain to the Criminal Judge what DoL orders are – more information can be found in the [YJLC DoLs Guide for Criminal Practitioners](#). The defence lawyer can also refer the court to the relevant parts of 'The National Protocol on reducing unnecessary criminalization of looked after children and care leavers'. The defence lawyer may need to do detailed research and argue strenuously at a bail hearing and be prepared to challenge any unlawful remand to YDA.

4. **Children's Social Care Team** it is the responsibility of the social care team in the child's local authority to accommodate a child on remand to LAA. (Concordat p.22)
5. **YST** it is the responsibility of the YST to ensure that the LA are aware of the criminal justice process and that a child cannot be remanded to YDA on welfare grounds.

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

² Youth Court Bench Book, YDA considerations p.27 - 30 and criteria p.31-32