

Family Services

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1. Introduction

Encouraging compliance, in tandem with swift and efficient enforcement, is critical when managing young people who are subject to court orders. This document is designed to provide a framework which will increase consistency in decision-making across the service so that young people's experience of compliance and enforcement decisions are as effective and fair as possible and their engagement with the YOS is enhanced.

2. Missed Appointments

Enforcement action in relation to YRO's and custodial sentences needs to be taken in accordance with the procedures outlined in Schedule 2 of the Criminal Justice and Immigration Act 2008. Referral Order enforcement action is taken under Schedule 1 of the Powers of Criminal Courts (Sentencing) Act 2000.

Missed appointments should be followed up on the same day or at the latest by close of business the following day to establish the reasons for non-attendance. Robust and timely investigations should be carried out into the reasons for non-attendance and whether it is deemed acceptable or unacceptable and a prompt decision made regarding what action needs to be taken.

In the event that investigations are likely to take more than 24 hours then the YOT Officer should issue the written warning which can subsequently be withdrawn if there is sufficient evidence to do so.

On the first occasion, if there is no evidence to support the missed appointment then a first written warning (using the template) should be issued and a copy sent to the young person and his/her parent/carer. The letter should outline the circumstances of the failure to comply and that it is unacceptable, as well as explaining that further missed appointments will lead to a return to court.

The letter should encourage the young person to make contact and to continue attending the YOT and should reference the details of the young person's next appointment.

The contact and enforcement pages on Careworks should be completed with a full account of the reasons given, the investigations made and the outcome.

If the young person fails to attend again then the same process as described above should take place and a final written warning given (using the template) if the reasons provided are not accepted. As the young person is close to breach at this stage a Compliance Panel should be arranged to understand the barriers to attendance (see below).

A third unacceptable missed appointment will result in breach action being instigated. The YOT Officer should send a written breach notification letter (using the template) which advises the young person that he/she is in breach, that they will be summonsed in due course, and that they should seek the support of a solicitor. It should encourage the young person to continue attending the YOT and offer further appointments. The parent/carer should also be sent a copy. The court breach process should then be followed (see below).

3. Verbal Warnings

The practice of verbal warnings is not promoted in the YJB National Standards or in this Compliance and Enforcement guidance; nor does it feature in legislation. Such a measure should be used sparingly and where the decision is justifiable in terms of risk management.

Verbal warnings should not be given at the start of a sentence as this is the time when boundaries should be maintained fully to ensure a clear consistent message and compliance routine is established. Justifiable occasions to consider a verbal warning would be following good compliance which is then followed by a missed appointment.

Examples are given below:

- A young person accrues a final warning very quickly into his court order, he then complies fully for a period of six months or more and at this stage he has a further missed appointment. His risk in all three domains is stable and there aren't any concerns regarding a significant decrease in motivation.
- A young person has completed the intensive phase of ISS and accrued a final warning during this period (which is easier to do due to the volume of appointments). There aren't significant changes in the three risk areas and he continues to attend following this missed appointment.

Verbal warnings should only be given on **one** occasion during the 12 month warned period and only following consultation with a manager. The YOT Officer should clearly outline the reasons for the application on Careworks and the Manager will then need to indicate consent to the verbal warning on the database.

4. Make up Appointments

Make up appointments do not serve to promote consistency and should therefore be avoided. In the event that a YOT Officer assesses that there is a good reason for a make-up appointment then this should be discussed and agreed with a Manager in advance of issuing it. The reasons for the decision and the managerial consent need to be evident on Careworks.

5. Combining Warnings

The practice of amalgamating several missed appointments into one warning is not considered good enforcement practice and should not take place.

6. Punctuality

Young people often struggle with attending on time but allowances in terms of punctuality can cause knock on effects and should not be encouraged. Young people should be supported with text reminders on the day of their appointments. In some cases young people will call en route to explain their lateness and if they are close by and the period of lateness isn't yet excessive then discretion can be used. Generally young people should not be seen if they are more than 20 minutes late. It is important that the late period is marked with a conversation and encouragement that it should not be repeated. If the young person is repeatedly late (more than 3 times in a row) then a warning will need to be considered.

Young people who attend early, unless they have a valid reason, should be made to wait until their appointment time.

Repeated early/late attendance is often used as a strategy by young people as they realise that the YOT Officer will not be able to deliver a full intervention. This, along with supporting young people to be able to develop organisational skills and to maintain their responsibilities are the reasons why punctuality needs to be managed.

7. Sickness

A young person is able to self-certify for the first day and then if the illness persists he/she will have to provide evidence. If the young person provides written consent then the YOT Officer is able to contact the GP to obtain confirmation.

If young people give written permission for the YOT Officer to contact their GP for confirmation then this will also be permissible.

8. Specialist Appointments

The YOT Officer (not the specialist) is responsible for investigating all missed appointments and for issuing any written warnings. Specialists can provide information to support this process but are not accountable for the decision or delivery of the warning.

9. Education Requirements

In order to reflect the fact that Education Requirements need to take into account progress with attendance the following local agreement has been established:

- The YOT Education Officer will set up a meeting with the relevant school, involving the young person and their parent/carers, in order to negotiate what % attendance would be realistic to achieve in each case. The expectation is that this target is reviewed every month, with an increase in the % attendance on each review, if realistic, or whatever the review meeting deems appropriate (e.g. it could remain static). If the target attendance is not met in any given month, this should be enforced with one warning.
- The support packages around this target will be defined by the YOT Education Officer through her collaborative work with school, young person and parents/carers and it will be amended at each monthly review.

In those cases, particularly where school attendance is zero or very low, there is a proviso after one/two weeks that the YOT Education Officer will convene an emergency meeting, rather than wait a whole month, which allows for enforcement action to be taken at an earlier stage.

10. Compliance Panels

Compliance panels are designed to explore the barriers to a young person's attendance and to promote engagement via agreed targets which are then reviewed at regular intervals.

The meeting should be chaired by a Manager/Principal Practitioner and attended by the YOT Officer, the young person and his parent/carer. Specialist staff and Social Workers are encouraged to attend or to submit information in writing in advance of the meeting. The YOT Officer is responsible for completing the compliance panel assessment in good time for the meeting and submitting this to the chair of the meeting.

The YOT Officer should outline the young person's compliance to date and inform the meeting of good progress as well as any challenges. Specialist workers should then provide an update. The young person and their parent/carer should be given time and space to explore the barriers to attendance; the group should collectively agree an achievable action plan which is then reviewed in a timely manner. The young person should sign a copy of the action plan during the meeting.

A further incidence of failure to comply within the review period should result in breach action being taken and the young person should be clearly informed of this. The compliance panel **does not** erase all previous warnings.

11. Electronic Curfew Violations

The relevant legislation is contained in Section 4 of the Criminal Justice and Immigration Act 2008. This defines who the "responsible officer" is in terms of enforcement.

National Standards indicate that the YOS carries out enforcement action in all cases apart from "stand-alone" curfew requirements (Note: "stand-alone" curfew means the curfew requirement is the single YRO requirement) and therefore the YOT Officer is the "responsible officer" in all other cases. This applies even when the young person may be subject to requirements which we do not directly supervise such as unpaid work or attendance centres.

EMS will seek the details of the YOS "responsible officer" and then send notifications regarding any violations via secure email.

The YOS is responsible for informing EMS of any change in the young person's circumstances within one working day. In the event that the young person moves then the YOS should contact the court and get the case listed in order to amend the address on the next working day.

Young people need to ensure they comply with the fitting of their tag at the first opportunity and failure to do so must elicit a first warning. Lack of compliance at the early stage of the order must be rigorously enforced particularly as tags are given in those cases where risk levels are high.

EMS will return to attempt to tag a young person twice. The YOT Officer must then liaise with EMS and, if necessary, the court, to request a re-visit. Warnings must be sent on each occasion.

The YOS is also responsible for sending the warning letters. A warning letter should be issued within two working days when EMS has informed of a "less serious" violation (this amounts to two hours) and if a second "less serious" violation is received then this should amount to a final warning. National Standards

indicate that breach should be instigated within **two** working days when there is either a third “less serious” violation or a first “serious” violation – this could be a whole night out or failing to allow Serco to fit the tag/equipment.

Breach can only be stayed, following consultation with a Manager, where there are exceptional circumstances.

The YOT Officer must contact EMS to confirm what action has been taken following every breach report they receive from EMS using the breach report template. A copy of this must go onto the Careworks paperclip and a contact entry completed to confirm that the action has been taken. If a case goes to court in breach then the YOS needs to feedback the outcome of the hearing to EMS and follow the same recording process.

12. Unpaid Work Violations

The London Youth Offending Service Community Payback Liaison Protocol 10/10/12 is the document which stipulates the procedure that should be followed in relation to unpaid work breaches.

Serco is responsible for enforcing stand- alone orders. The YOS manages those orders where there are a combination with any other requirement, including electronic monitoring.

Serco is responsible for notifying the named YOT Officer by secure email of the young person’s attendance and standard of work, or failure to attend for Community Payback at the latest by 10:00 a.m. on the day following the work session.

If the young person is attending unpaid work on a weekly basis, Serco will schedule a further work appointment following an absence. If the young person fails to attend this further appointment, the offender will not be scheduled for further work appointments, unless requested by the YOT Officer. Where the young people are being instructed to work their sentences intensively over four days each week, Serco will undertake to schedule two further work appointments. If the young person fails to attend both of those appointments, the offender will not be scheduled for further work appointments, unless requested by the YOT Officer.

The YOT Officer has the responsibility for determining whether to instigate compliance or breach proceedings after each failure to comply. Serco may contribute to breach decisions. If Serco and the YOT Officer disagree on the desirability of instigating breach or revocation proceedings the question should be escalated to the Operational/Service Manager. The Operational/Service Manager’s decision is final.

When a young person is subject to concurrent (but separately imposed) orders, e.g. a Supervision Requirement and a concurrent stand- alone Unpaid Work Requirement, any breach will be dealt with by the organisation responsible for that order. In other words, the Supervision Requirement will be breached by the YOS and the Unpaid Work Requirement will be breached by the LPT Offender Manager sub-contracted to Serco. Both agencies should ensure that communication occurs in terms of breach being instigated, hearing dates being aligned (where possible), and re-sentencing proposals discussed.

13. Attendance Centre Violations

The YOS/AC protocol explains how both agency's will manage Attendance Centre Orders. In terms of enforcement the following will apply to all cases, including stand-alone cases.

If a young person fails to attend the Attendance Centre the Officer in Charge of the centre is responsible for contacting the young person on the day to ascertain the reason.

The OIC will then notify the YOS of both attendance and non-attendance within 24 hours in writing. Once the allocated YOT Officer receives a notification that the young person has failed to attend, a warning letter needs to be issued within 24 hours. This letter will also give information about the next Attendance Centre session. All the information needs to be documented on Careworks.

If the young person fails to attend again and receives a final warning then a Compliance Panel needs to be set up. This should also apply to stand-alone orders although it is accepted that the young person is not compelled to attend.

In the event that the young person is in breach of AC then the court process needs to be managed by the YOT Officer. The OIC will provide supporting information in relation to the missed appointment and contacts made in the form of a Section 9 statement.

14. Parenting Orders

The management of Parenting Orders is derived from the Youth Justice Board National Standards.

If the parent fails to comply then they should be contacted within one working day to establish if the reason given is acceptable or not. A written warning should be issued if the absence is deemed to be unacceptable.

If there is more than one unacceptable failure to comply within three months the Parenting Support Officer should meet with the parent to review the order to see how it can be made to work. Following a second warning a Compliance Panel will be held to identify the reasons for non-attendance and to outline the consequences of further violations. If there are further failures to comply then the matter will have to be reported to the Police who will investigate and report the findings to the CPS with court action being instigated as necessary.

15. Referral Orders

Enforcement action for Referral Orders is in accordance with Schedule 1 of the Powers of Criminal Courts (Sentencing) Act 2000.

Referral Orders follow the same warning process as all other court orders and particular attention needs to be paid to those who miss Panels or first appointments. Where two formal warnings are given within a 12 month period and a further unacceptable failure takes place then the YOS has to convene a Referral Order Panel within 10 days to determine whether the matter should be referred to court or not.

Where there is a single serious unacceptable failure to comply then a Panel should be set up within the same timeframe of 10 days or earlier, again to determine if the case should be returned to court.

In the event that the young person fails to attend the initial Panel Meeting then the YOS/Panel need to decide if the reasons given were sufficient and if a second Panel Meeting should be convened. If a second opportunity is given and the young person fails to attend again then immediate breach action needs to be taken.

In the event that the Referral Order Panel allows the order to continue then the enforcement system starts from scratch. Referral Order cases should be referred to Panel rather than having a Compliance Meeting.

If the Referral Order Panel decides that the young person should be referred back to court then they need to put this information in a signed statement.

16. Court Breach Process

Once a young person has accrued a third unacceptable missed appointment then it is extremely important that breach action is instigated promptly and usually the matter should be listed for the Youth Court the following week.

The Summons and Information are now one document. The legislation reference at the top must be accurate according to the requirements the young person is on and the evidence for breach should be the three missed appointments only.

The Summons along with the front sheet should be sent via the secure cjsm group email box to the Legal Advisers who will return it within 24 hours. The onus is on the YOT Officer to pursue this in the event that the Summons and front sheet (signed by the Legal Adviser) is not returned within this timeframe. Once the Summons is received the YOT Officer needs to certify it, retain a YOS copy and post a copy to the young person by first class post, noting that this has been done on Careworks. The YOT Officer then needs to ensure that the certified copy of the Summons and the front sheet are both contained in the breach pack.

There should be three copies of the breach pack (YOT/Defence/DJ) and it should contain the following:

- Certified Summons
- Front sheet
- Copy of Court Order
- Copy of all three missed appointment letters
- Print out of relevant Careworks entries
- Original Pre-Sentence Report
- Original Case Summary
- Copy of up to date PNC
- Section 9 Witness Statement (YOT Officer and any other party involved i.e. Probation, ISS Co-Coordinator)
- Any additional information i.e. ISS timetables

In relation to Referral Orders the following should also be attached:

- Copy of Referral Order Panel Member's letter returning the case to Court
- Copy of the original signed Contract, if available

Breach reports should be prepared in anticipation of a guilty plea and to facilitate speedy sentencing. The breach report should not be given to the defence solicitor prior to the young person stating a plea and therefore should be given to the Magistrates at the same time.

The YOS should also prepare a Warrant in the event that the young person fails to attend court. All YOS Warrants are without bail and need to have the risk assessment section attached (along with the young person's telephone number).

All breach packs must be quality assured to ensure the smooth running of the breach process in court.

17. Young People who Abscond/Increase Risk and/or Vulnerability

In the event that a young person has absconded whilst subject to a court order or their risk of harm has risen significantly to raise serious concern, then a First Instance Warrant should be applied for. The Warrant should contain sufficient evidence to enable the court to identify the risk to the community. This can also include information about increased vulnerability.