

# **National Protocol for Case Responsibility-**

## **Practice Guidance for Youth Offending Teams in England and Wales**

Final 14.05.2014

# Contents

<b>Contents</b>	<b>1</b>
<b>1.0 Introduction</b>	<b>3</b>
<b>2.0 Background</b>	<b>5</b>
<b>3.0 Principles</b>	<b>7</b>
<b>4.0 Terminology</b>	<b>8</b>
Establishing responsibility terms	8
Case transfer terms	8
<b>5.0 Legal Aid, Sentencing and Punishment of Offenders Act 2012</b>	<b>9</b>
<b>6.0 Practice guidance notes</b>	<b>10</b>
Prior to court	10
Appropriate Adults	10
Out-of-court disposals (pre-court)	11
Detained young people	13
At court	14
Identifying the Home YOT	15
Bail and remand	15
Remands to local authority accommodation	16
Youth detention accommodation	17
Occasional/Saturday court cover	18
New arrivals, foreign nationals, asylum seekers and trafficked children	19
Children or young people estranged from home and appearing in court	19
Looked-after children and pre-sentence reports	21
Looked-after children appearing in court and there is a risk of custody	22
Pre-sentence reports	23
Stand-down/specific sentence reports	23
Data recording in cases at court	23
Local justice areas	23
Post-sentence – Community	24
Youth Rehabilitation Order/Scaled Approach/revised National Standards for Youth Justice Services	24
Child or young person moving residence within the family	24
Data recording where move is within the family	25
Established family unit moving	25
Data recording where established family unit moving	26
Looked-after children	27
Looked-after children – core responsibilities	27
Looked-after children and Referral Order Panels	29
Data recording in looked-after children’s cases	30
High-risk children and young people (gangs and MAPPA)	30
Community Safeguarding and Public Protection Incidents	31
Breach	31
Release from custody	31
<b>Appendix 1: Dispute resolution</b>	<b>32</b>
<b>Appendix 2: Information-sharing checklist</b>	<b>33</b>

# Acknowledgements

This document is an update of the *National Protocol for Case Responsibility* (Youth Justice Board, 2011) which included contributions from:

- the Department for Education
- the Youth Justice Policy Unit at the Ministry of Justice
- the Association of Chief Police Officers
- the Association of Directors of Children's Services.

The Ministry of Justice has contributed to this updated protocol

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# 1.0 Introduction

- 1.1 There are numerous practice scenarios in which children and young people require youth justice services while outside the area in which they normally live. It is impossible to anticipate every practice scenario, therefore this guidance document provides:
- a set of overarching principles designed to assist local services to:
    - work in partnership with others to support practice that safeguards children's welfare
    - manage public protection issues
    - ensure supervision meets court expectations
  - guidance in relation to practice; for ease of reference this is divided into three broad areas of practice: prior to court, at court and post-sentence
  - a dispute resolution process.
- 1.2 During 2012/13, there were approximately 1,300 full case transfers between youth offending teams (YOTs) in England and Wales and a significant number of cases that were subject to temporary caretaking arrangements.
- 1.3 Case transfer is a critical period for children and young people and youth justice services are expected to work together to ensure a child's welfare is properly safeguarded, continuity of existing court orders is maintained and any risks the child poses to the public are minimised.
- 1.4 This document replaces the 2011 *National Protocol for Case Responsibility*. Revisions have been included to incorporate:
1. changes introduced by the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012
  2. recommendations from the HM Inspectorate of Probation's 2012 report, *Looked After Children: An Inspection of the Work of Youth Offending Teams with Children and Young People Who are Looked After and Placed Away from Home*
  3. learning from serious case reviews
  4. findings from Prison and Probation Ombudsman fatal incident investigations
  5. feedback from YOTs in relation to complex cases, dispute resolution processes and signposting to other external agencies
  6. youth justice services in Wales.

1.5 This guidance should be read alongside other associated or pertinent guidance and/or reports:

- [National Standards for Youth Justice Services](#) (YJB, 2013)
- [Case Management Guidance](#) (YJB, 2010)
- [YOT Data Recording Guidance 2013/14](#) (YJB, 2013)
- [Process for Determining the Designated Authority](#) guidance (Ministry of Justice and YJB)
- [Making It Count In Court](#), second edition (YJB and Her Majesty's Courts Service, 2010)
- [Youth to Adult Transitions Framework: Advice for Managing Cases which Transfer from Youth Offending Teams to Probation Trusts](#) (YJB and National Offender Management Service, 2012)
- [Multi-Agency Public Protection Arrangements \(MAPPA\): Guidance for Youth Offending Teams](#) (YJB, 2010)
- [Community Safeguarding and Public Protection Incidents \(CSPPI\)](#) guidance
- [Community Safeguarding and Public Protection Incidents \(CSPPI\) – Notification and Learning: Standard Operating Procedures for Youth Offending Teams](#) (YJB, 2013)
- [Crown Prosecution Service guidance on human trafficking and smuggling](#)
- [Human Trafficking: The Government's Strategy](#) (2011)
- [Looked After Children: An Inspection of the Work of Youth Offending Teams with Children and Young People Who are Looked After and Placed Away from Home](#) (HM Inspectorate of Probation, 2012)
- [Youth Out-of-Court Disposals: Guide for Police and Youth Offending Services](#) (YJB, 2013)
- [Quick Reference Guides to Out of Court Disposals](#) (MoJ, 2013)
- local safeguarding children and young people protocols
- the YJB's policy on missing documents and improving Connectivity (a revised version is expected to be published in spring 2014).

1.6 The new AssetPlus framework is due to be implemented in late 2014/15 and we will incorporate a review of the National Protocol for Case Responsibility alongside the deployment of AssetPlus.

## 2.0 Background

- 2.1 In 2012, the YJB investigated the practice issues experienced by youth offending teams (YOTs) in relation to looked-after children placed out of area. The resulting report was subsequently presented to the Department for Education task force on looked-after children. The report examined issues from both Home and Host YOT perspectives (Home and Host YOT definitions can be found at section 4) and outlined the practice complexities. The emerging headline issues identified were:
- poor communication between YOTs and children’s services
  - poor information transfer between YOTs, impacting on risk management and the delivery of effective services
  - uneven resource implications in relation to originating and receiving YOTs, with some YOT areas receiving disproportionate transfers due to the availability of placements for young people
  - lack of proactive assessment in relation to ethnicity, culture and special needs when making placement decisions
  - variable programme delivery across YOTs, creating intervention continuity difficulties.
- 2.2 In December 2012, HM Inspectorate of Probation published its thematic inspection on looked-after children, [\*Looked After Children: An Inspection of the Work of Youth Offending Teams with Children and Young People Who are Looked After and Placed Away from Home\*](#). The Inspectorate reported on the work of YOTs with children and young people who are looked after and placed away from home. The report stated that this “small, yet highly vulnerable group” presented real challenges to those agencies responsible for their care and support, and cited information-sharing concerns between children’s services and YOTs as a major contributor. The report acknowledged that YOT staff worked hard to build relationships and constructive interventions, but stated that many failed to understand the emotional impact of being looked after and in residential care. The report made a number of recommendations for children’s services and YOTs.
- 2.3 Under the Crime and Disorder Act 1998, YOTs are responsible for providing youth justice services to all children and young people within their area. There are significant challenges for YOTs which have a high number of cases transferred into their areas. However, it is imperative that the best quality services are available to all children and young people regardless of where they would usually live.
- 2.4 Improving practice in relation to case transfers and the management of cases where children are living away from their home local authorities will produce better outcomes for children or young people and enable greater public protection. Continuity of supervision and support during a time often fraught

with risks to the young person and others is vital if reductions in reoffending and improved community safety is to be achieved.

## 3.0 Principles

3.1 This protocol is underpinned by a number of principles that are outlined below.

### Practice principles

- The welfare of the child/young person should remain paramount.
- Public protection needs require active consideration, planning and management.
- Children and young people should be involved in discussions about their case transfer and understand what the transfer means for them.
- Children and young people's established support needs should be catered for before, during and after their transfer.
- All children and young people should maintain a named supervising officer through the period of the transfer.
- Youth justice services should be provided at the same standard regardless of whether the case is the responsibility of the Home YOT or is subject to temporary caretaking arrangements.
- Relevant information should be shared between agencies in a timely and thorough way and recorded accurately.

### Dispute resolution principles

- Any disputed transfer should be resolved at the lowest level possible.
- Any disputes should be resolved in the shortest possible timeframe.
- Services and partners should have joint responsibility to resolve such disputes.
- Escalation of concerns should be through the YOT Management Board governance structure and in line with locally agreed procedures.



# 4.0 Terminology

4.1 The following terms apply.

## Establishing responsibility terms

- **Host YOT** – the service that provides youth justice services to a young person who does not live within that service’s geographical area.
- **Home YOT** – the service where the young person normally resides; In the case of a looked-after child,<sup>1</sup> the service of the Designated Authority.
- **Designated Authority** – refers to the local authority determined by the court as having overall responsibility for the young person. This inevitably becomes the home YOT for the duration of the delegation.

## Case transfer terms

- **Receiving YOT** – refers to the service taking overall responsibility for a young person’s criminal order from another service; the receiving YOT will become the home YOT.
- **Originating YOT** – refers to a service transferring overall responsibility for a young person’s criminal order to another service.
- **Caretaking YOT** – refers to a temporary arrangement (usually for three months) where the host YOT is, by agreement, responsible for the day-to-day management of the case.

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<sup>1</sup> ‘Looked-after child’ is used as opposed to ‘children in care’ to reflect the young person’s legal status (as per the Children Act 1989). ‘Children in care’ refers to a more specific population of young people than this document applies to, and so the broader term is used.

## 5.0 Legal Aid, Sentencing and Punishment of Offenders Act 2012

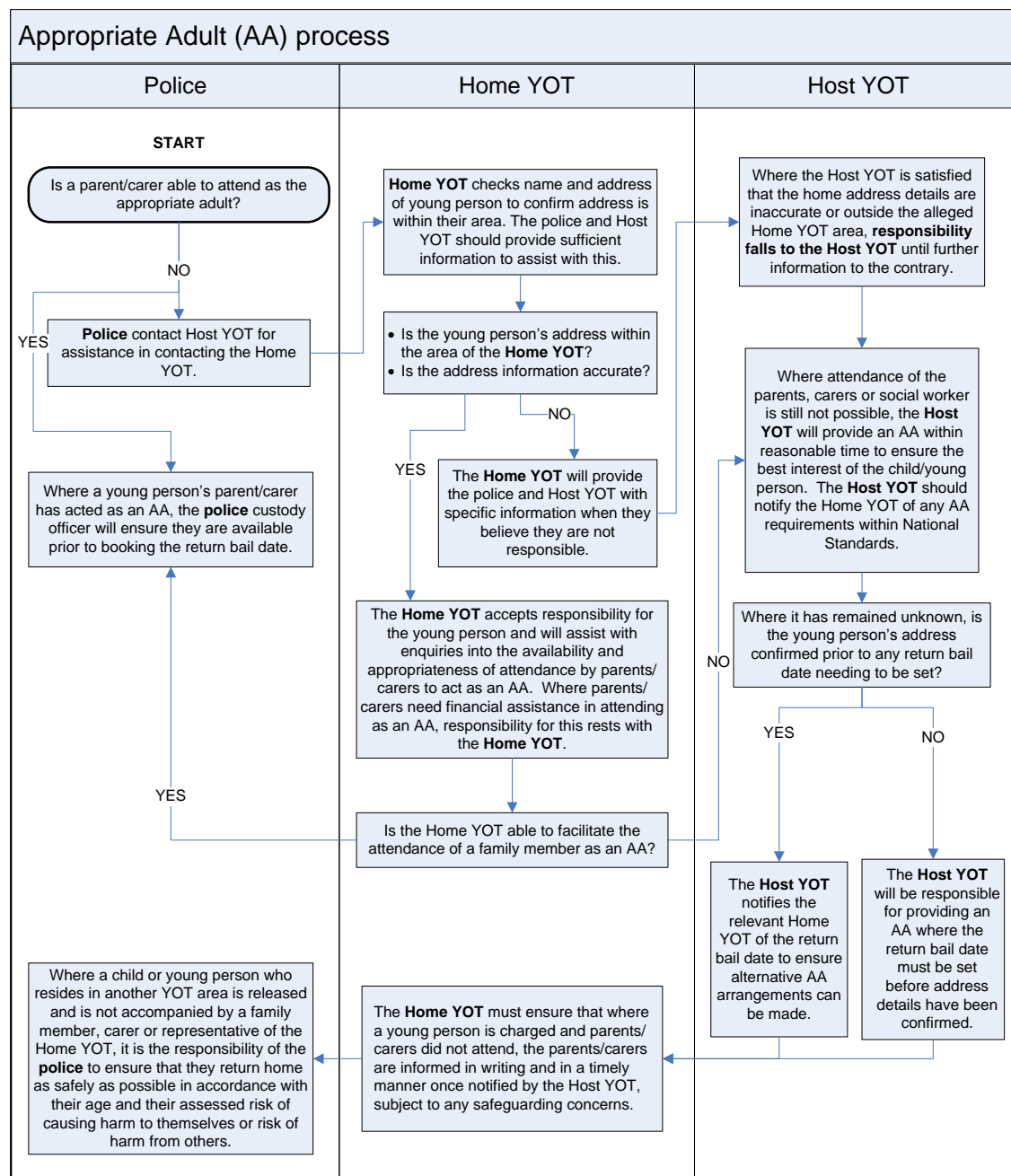
- 5.1 The Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 has had an impact on the remand status and subsequent financial implications for local authorities. This guidance document has been updated to reflect these changes.
- 5.2 The main changes that impact on case transfer processes are:
- all young people under the age of 18 are remanded under the same legal framework
  - all young people either remanded to local authority accommodation or remanded to youth detention accommodation are regarded as looked-after children during their period on remand
  - local authorities are responsible for payment to the YJB in respect of the cost of a child or young person detained on remand in youth detention accommodation; this includes now being responsible for the full costs of children and young people placed in secure training centres (STCs) or secure children's homes (SCHs)
  - the introduction of a 'real prospect of custody' test, whereby a 12 to 17-year-old can only be remanded to youth detention accommodation if they meet one of two sets of conditions; the first set is based on the type of offending and the second is based on the history of absconding or offending, together with consideration of whether there is a real prospect of a custodial sentence.
- 5.3 Based on the transfer of costs to local authorities, this guidance should be used for establishing responsibility for young people and clarifying responsibilities for local authorities when young people are transferred to, or are being 'caretaken' for a period of time by another local authority.
- 5.4 There will be further requirements for local authorities representing young people on remand who are not ordinarily resident in their local authority area. Host YOTs should consult with Home YOTs, where this is known. In reference to providing the YJB Placement Service with information regarding the young person's safety and well-being, and placement type please see sections 6.27-6.30.
- 5.5 Failure to complete these tasks may result in missing documents and an automatic presumption by the YJB of risk to the young person's safety and well-being, resulting in a relevant placement being sought (STC or SCH) at the cost of the Home local authority or Host local authority where the Home local authority is not known. Therefore, all local authorities should ensure that Post-Court Reports and Placement Information Forms are completed accurately and provided to the YJB Placement Service to ensure the most suitable placement can be provided.

## 6.0 Practice guidance notes

### Prior to court

#### Appropriate Adults

- 6.1 Under the Police and Criminal Evidence Act 1984 (PACE), the police are responsible for contacting their local (Host) youth offending team (YOT).
- 6.2 The process outlined below makes the assumption that there is no pre-arranged agreement between YOTs in relation to the provision of Appropriate Adults.
- 6.3 The Host YOT should provide an Appropriate Adult service after they have made reasonable efforts to obtain the relevant details from the Home YOT.
- 6.4 Outside of normal office hours, where an Appropriate Adult is not forthcoming from the young person's family, it is the responsibility of the local authority where the police station is based to provide an Appropriate Adult. This will be either the YOT's out-of-hours Appropriate Adult service or the Emergency Duty Team, as appropriate.
- 6.5 The Home YOT should be notified within 24 hours of the outcome of the police interview.
- 6.6 For the purposes of this guidance, all young people under the age of 18 should be deemed as eligible for an Appropriate Adult service.



### Out-of-court disposals (pre-court)

6.7 The Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 created a streamlined out-of-court-disposal youth framework, creating Youth Cautions (YC) and amending the legislation on Youth Conditional Cautions (YCC). The out-of-court-disposal youth framework consists of three recognised outcomes for young people: Community Resolution, Youth Caution and Youth Conditional Caution – please refer to *Youth Out-of-Court Disposals: Guide for Police and Youth Offending Services* (YJB, 2013) and *Quick Reference Guides to Out of Court Disposals* (MoJ, 2013) for more information.

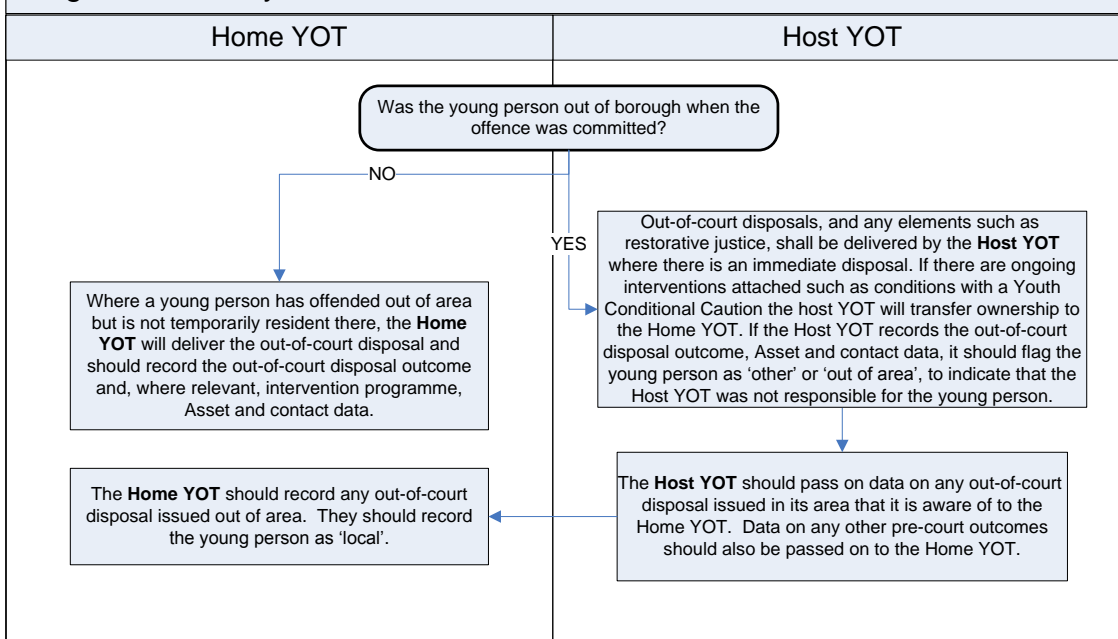
6.8 The extent of the YOT's involvement in the disposal will depend on the disposal used:

- A Community Resolution will normally be dealt with by the police independently; best practice would include the police informing the YOT of any Community Resolutions issued, giving information in relation to the name of the young person, their address and the offence for which the Community Resolution was issued.
- A first Youth Caution can be decided upon by the police alone unless for an indictable-only offence, for which the authority of the Crown Prosecution Service is required. For all second or subsequent out-of-court formal disposals, or if the police have concerns regarding the young person, an assessment by the YOT is required prior to making the final decision to give a Youth Caution.
- In relation to Youth Conditional Cautions, the police and the YOT will jointly decide if this is an appropriate outcome (unless for an indictable-only offence, for which the authority of the Crown Prosecution Service is required). The young person will be subject to an assessment by the YOT, after which the YOT and the police will reach agreement on appropriate interventions or conditions that the YOT will then supervise.

6.9 A young person being dealt with by means of an out-of-court disposal will be dealt with by the police in the area in which they have offended. Therefore, if a child/young person offends outside the area where they normally live, the police will notify the YOT in the area where the offence was committed (the Host YOT). When this involves a Youth Conditional Caution, the Home YOT should be consulted so there is agreement regarding the conditions that the Home YOT will be responsible for monitoring.

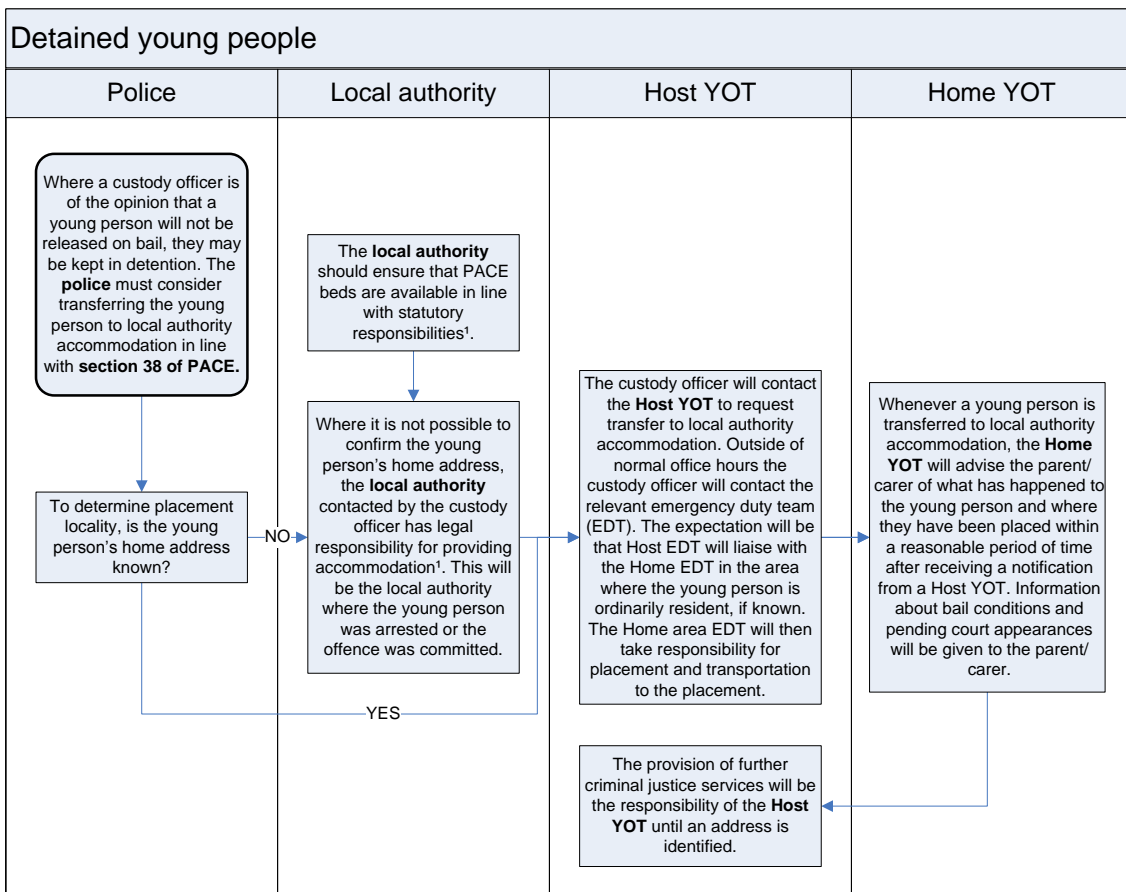
6.10 The Host YOT should notify the Home YOT within 24 hours, so that the Home YOT can make contact with the police managing the young person's case and meet timescales and processes laid out within the standard operating procedures and the codes of practice.

## Out-of-court (pre-court) disposals: Youth Caution, Youth Conditional Caution, Triage, Community Resolution



### Detained young people

6.11 Responsibilities in respect of young people from outside a YOT's geographical area detained by the police are as follows.



<sup>1</sup> Children Act 1989 s21(2)b

6.12 Wherever possible, unless it is impractical or constitutes a risk, a detained young person transferred to accommodation should be placed in their local community. Where the child is already a looked-after child, again, unless it is impractical or constitutes a risk, the placement should be the child's usual placement.

## At court

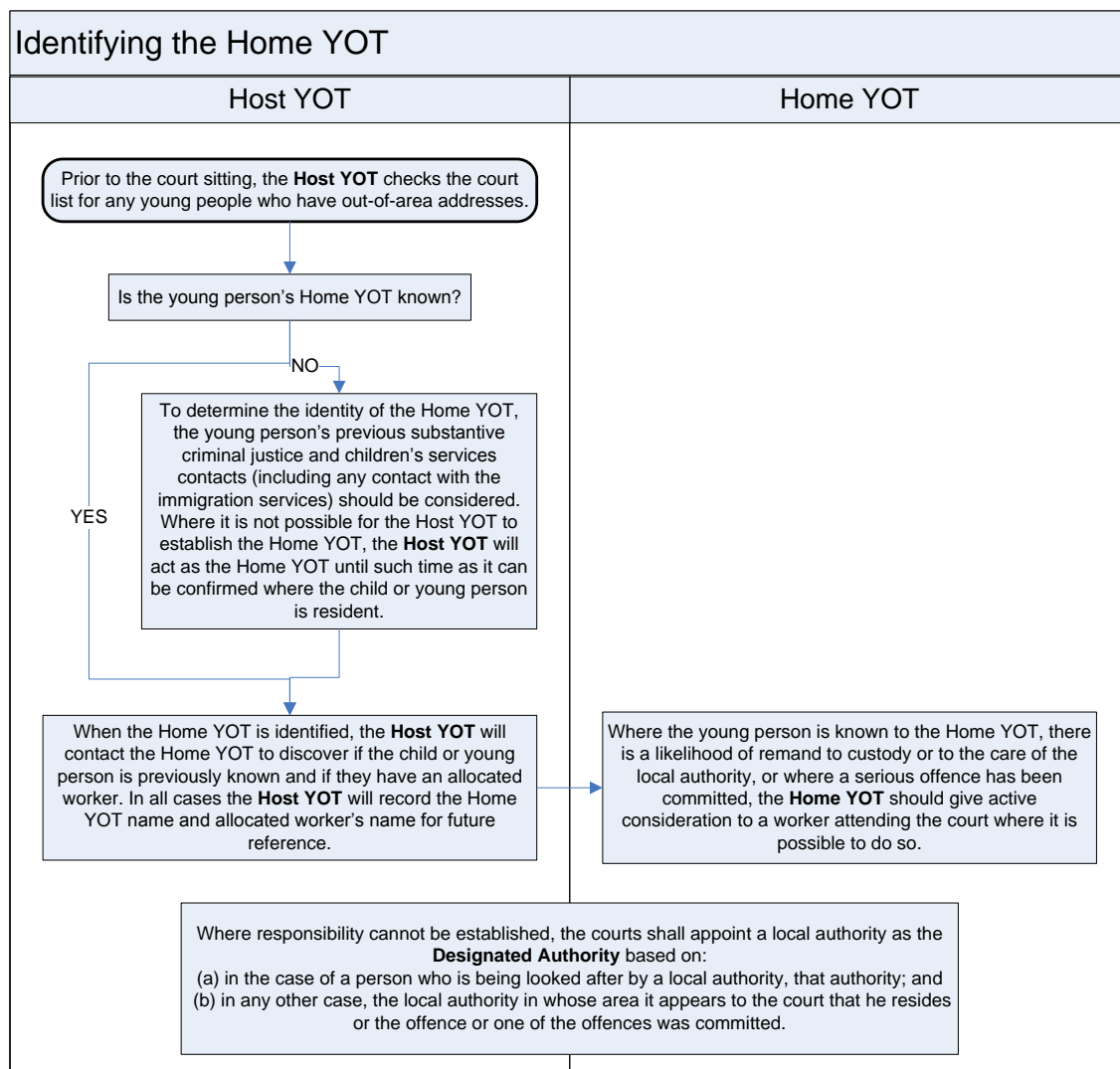
6.13 Processes outlined in this section pertain to young people making an appearance in an out-of-area court where a host YOT is in attendance.

6.14 Quality and timely assessments of risks (posed both by and to the young person) are an essential safeguard for children and young people appearing in court. YOTs have a duty to ensure that accurate and current information about a young person is provided to courts and to the YJB Placement Service if there is the possibility that the young person will receive a custodial outcome. The failure to provide mandatory documents and assessments can generate additional and unnecessary safeguarding risks. For example, the YJB Placement Service may well direct a young person to an SCH/STC placement if they feel that the risks or issues relating to the child or young person well being and safety are unclear. Such an environment will provide closer supervision and safeguarding, but will of course result in escalated costs which may not have been necessary had documents been provided at the time of placement.

- 6.15 There should always be discussions between Home and Host YOTs whenever a child or young person who resides in one geographical area appears in a court in a different area. Host YOTs must refer to the guidance [Process for Determining the Designated Authority](#) (Ministry of Justice and YJB), which outlines practice advice in relation to the designated local authority.
- 6.16 In cases where it is known by the Home YOT that a child or young person is appearing in court, they are responsible for liaising with the Host YOT in advance of the appearance.

### Identifying the Home YOT

- 6.17 The process by which a Host YOT identifies the Home YOT of a young person appearing in their local court is as follows.



### Bail and remand

- 6.18 On occasions where a young person appears in an out-of-area court and their Home YOT has been identified, the following responsibilities apply in relation to preparing bail assessments:



- it is the responsibility of the YOT where the bail address is located to assess the suitability of the proposed bail address by undertaking relevant checks, including the suitability of electronic monitoring
  - the findings of this assessment should be communicated to the Home YOT to endorse the proposed bail address.
- 6.19 A home visit should be undertaken to verify the address, this should be agreed between the Home and Host YOTs on a case-by-case basis. The provision of verifying the address should not be subject to charging.
- 6.20 In cases where the young person is moving local authority area as part of their bail conditions and they are subject to a bail support package, the Home and Host YOTs must agree the responsibilities for each YOT's involvement in the supervision of the young person.
- 6.21 In the interests of reducing avoidable secure remands, it is important that a potential Host YOT does its utmost to offer a bail support package to out-of-area young people which would satisfy the grounds on which the court are willing to grant bail.

### **Remands to local authority accommodation**

- 6.22 A court may impose any of the conditions on a child remanded to local authority accommodation that it could if the child was given bail, but only after consultation with the Designated Authority. The court may also impose requirements on the Designated Authority to make sure these conditions are adhered to.<sup>2</sup>
- 6.23 Where there is a possibility that a young person will be remanded to local authority accommodation, the Host YOT must advise the Home YOT as soon as possible, so that the Home YOT/local authority can make escort arrangements in advance.
- 6.24 If the young person is then remanded into local authority accommodation, the Host YOT must inform the Home YOT immediately so that secure escorts can be notified to reduce any delay in collection. The Home YOT must give details of the escort company to the Host YOT. The Host YOT should keep a copy of the warrant and send a copy to the Home YOT and the Designated Authority.
- 6.25 The Host YOT must always ensure that arrangements are made for an appropriate person to remain with the young person while waiting for the secure escort to arrive.
- 6.26 In cases where a young person appears in court, and where there is an intention by the court to remand the young person to local authority accommodation and responsibility cannot be determined, the court must still designate a local authority, which is then to receive the young person;<sup>3</sup> and that authority shall be:

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<sup>2</sup> See the Legal Aid, Sentencing and Punishment of Offenders Act 2012 Section 93 (1), 93 (4), 93 (5)a&b.

<sup>3</sup> See the Children and Young Persons Act 1969 Section 23(2) and the Legal Aid, Sentencing and Punishment of Offenders Act 2012 Section 92(2).

- a. in the case of a person who is being looked after by a local authority, that authority<sup>4</sup>
- b. in any other case, the local authority in whose area it appears to the court that they reside or the offence or one of the offences was committed.<sup>5</sup>

### **Youth detention accommodation**

- 6.27 The Home YOT has overall case ownership and is therefore responsible for ensuring that the mandatory placement documents (Placement Information Form, Asset documentation and Post-Court Report) are sent to the YJB Placement Service.
- 6.28 In the event that any documents are missing, the Home YOT will be contacted by the YJB.
- 6.29 The Host YOT present at court on the day of appearance must be able to contribute up-to-date information about risks to the young person's safety and well-being and any other information which comes to light during their contact with the young person. This is essential to reduce the possibility of inappropriate placements, lack of safeguarding measures, or risk of harm to others, and to provide continuity of any existing sentences and accuracy in invoicing local authorities.
- 6.30 In cases where the young person is not currently or previously known to the Home YOT, or the Home can not be identified, the Host YOT must ensure that the documentation (including the warrant) is completed accurately and forwarded to the relevant agencies. Liaison with the YJB Placement Service is essential to ensure the placement of young people subject to youth detention accommodation is appropriate. The Host YOT should keep a copy of the warrant and send a copy to the Home YOT, when established, or the Designated Authority.
- 6.31 In cases where a young person appears in court, and there is an intention to remand them to youth detention accommodation and responsibility cannot be determined, the court must still designate a local authority as the Designated Authority for the child<sup>6</sup>:
- a. in the case of a person who is being looked after by a local authority, that authority<sup>7</sup>
  - b. in any other case, the local authority in whose area it appears to the court that he/she habitually resides or, where the offence(s) was committed.<sup>8</sup>
- 6.32 The Home YOT will have financial and case management responsibility (inclusive of looked-after child status which has been a result of the

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<sup>4</sup> See the Legal Aid, Sentencing and Punishment of Offenders Act 2012 Section 92(3)a.

<sup>5</sup> See the Legal Aid, Sentencing and Punishment of Offenders Act 2012 Section 92(3)b.

<sup>6</sup> See the Children and Young Persons Act 1969 Section 23(2) and the Legal Aid, Sentencing and Punishment of Offenders Act 2012 Sections 92(2) and 102(6).

<sup>7</sup> See the Legal Aid, Sentencing and Punishment of Offenders Act 2012 Section 102(7)a.

<sup>8</sup> See the Legal Aid, Sentencing and Punishment of Offenders Act 2012 Section 102(7)b.

remand to youth detention accommodation alone). It is of upmost importance to recognise safeguarding implications when a young person is remanded to youth detention accommodation and emphasis must be placed on regular and informed communication with stakeholders, including the YJB Placement Service and the secure establishment.

- 6.33 The remand legislation now contains provisions allowing for a designation of a local authority to be amended retrospectively for the purpose of recovering the costs of remanding the young person in secure accommodation. For example, if a YOT considers that it should not be the designated authority, it may apply to the courts to have the designation changed to reflect the correct authority (and the warrant amended accordingly). The effect of this will, if the court orders it, be that the new authority is deemed always to have been the designated authority. The YOT requesting the change must liaise with the authority it wishes to designate and must be prepared to provide the court with reasons as to the change, such as confirmed address or previously unknown looked-after child status etc. In the event of a change to the warrant, the YJB must be informed to amend placement and invoicing records (ideally a copy of the amended warrant should also be provided).

#### **Occasional/Saturday court cover**

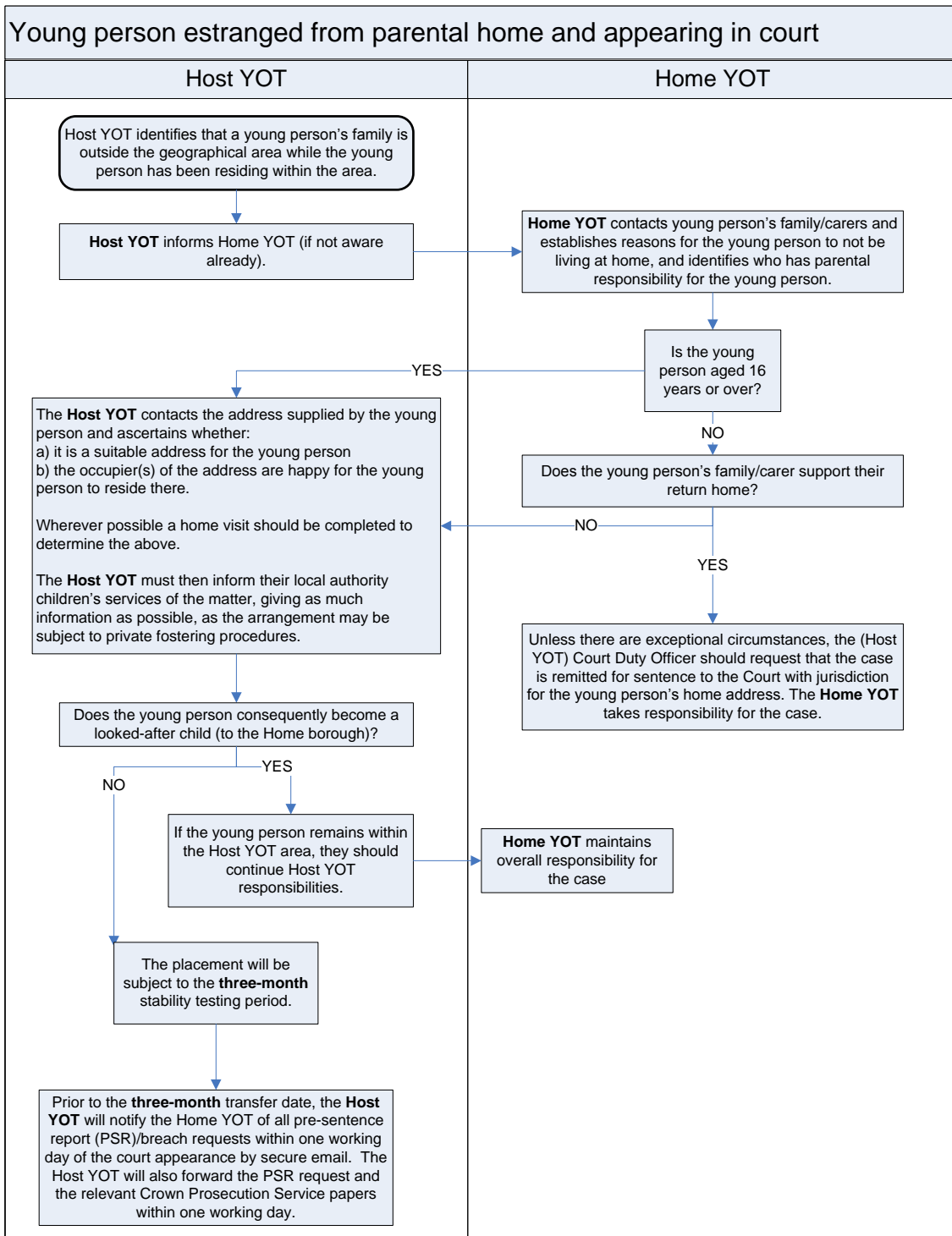
- 6.34 YOTs must contact Saturday and bank holiday courts before the start of court to confirm whether or not any youth cases are appearing.
- 6.35 Where a young person is appearing before an occasional court in another area, the Home YOT is known and there is a likelihood of a Youth Detention Accommodation Order, the Host YOT should liaise with the Home YOT to establish the Home Emergency Duty Team arrangements.
- 6.36 In the event of the Home YOT not being known please refer to section 6.26; the Host YOTs in such cases must refer to the *Process for Determining the Designated Authority* (Ministry of Justice and YJB) guidance.
- 6.37 In the event of a Youth Detention Accommodation Order being made, please refer to sections 6.27 to 6.30 which outlines responsibilities for placement documentation. Although if the Home YOT is unable to be contacted (because of the occasional/ Saturday nature of the appearance) then the Host YOT should complete and send to the YJB Placement Service, the relevant documentation required to ensure the young person is placed appropriately. This information is essential in order to ensure that missing documents do not result in an inappropriate placement.
- 6.38 The Host YOT will ensure that when an out-of-area young person has appeared in an occasional or Saturday court they notify the Home YOT of the outcome on the first available working day.
- 6.39 The Home YOT must then satisfy itself that all required documents have been submitted to the YJB Placement Service and ensure that any additional information about the young person is passed to the relevant agencies and establishments.

### **New arrivals, foreign nationals, asylum seekers and trafficked children**

- 6.40 The welfare of children who may have been trafficked, who are asylum seekers, illegal immigrants or unaccompanied foreign minors must be paramount in decision making and planning, just as it should be for all children.
- 6.41 The processes and responsibilities outlined in paragraphs 6.26, and 6.31 apply to young people who may have entered the country illegally or are in breach of any of the entry requirements.
- 6.42 In such cases, the United Kingdom Visas and Immigration Agency and/or the United Kingdom Immigration Enforcement Agency and the Host local authority's children's services department must be notified, and advice taken on the long-term management of the case.
- 6.43 Where appropriate, YOTs should encourage courts to clarify legal status. The following agencies/guidance may assist further:
- Crown Prosecution Service guidance on human trafficking and smuggling
  - the NSPCC's National Child Trafficking Advice Centre
  - the Home Office, in cases of unaccompanied asylum seekers
  - local immigrations teams and the National Offender Management Service's (NOMS') Immigration, Repatriation and Removal Services.
- 6.44 When there is a dispute about the age of a young person, YOTs should consider contacting the above agencies for clarification. In the event that this is unsuccessful, the YOT could make representations to the court that is responsible for determining the young person's age and may request an assessment to assist in this process.

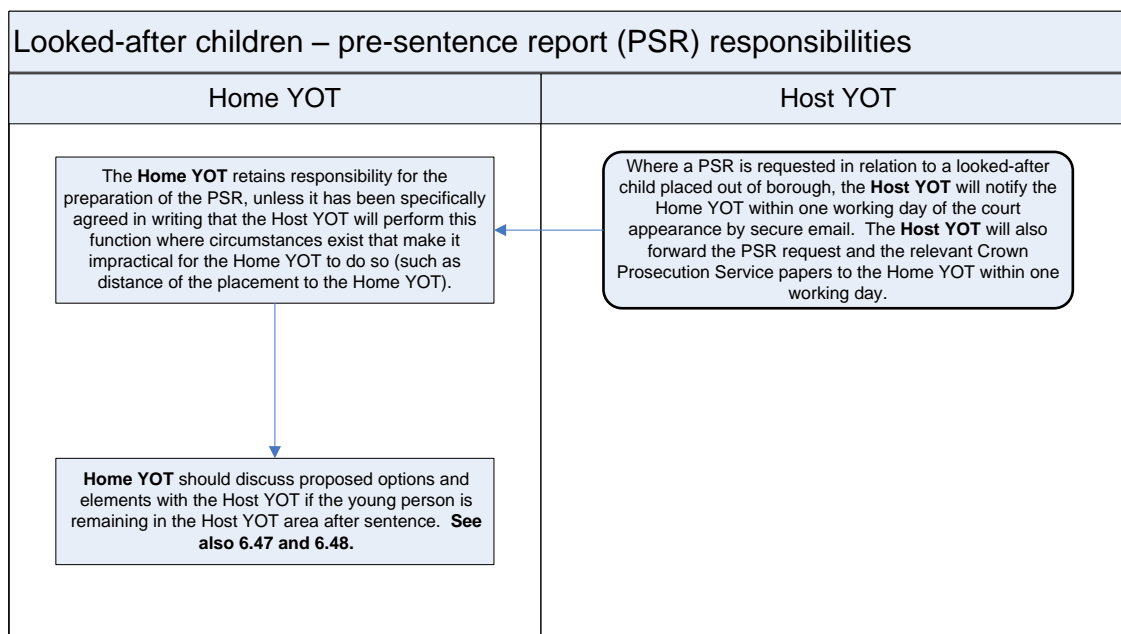
### **Children or young people estranged from home and appearing in court**

- 6.45 In the case that a child or young person appears in court and enquiries identify that the family home is outside of the YOT's geographical area, but the child or young person has been residing within their area, the following process should apply.



6.46 The responsibilities in respect of contacting a young person's family should be decided between the two YOTs involved wherever possible. Factors such as whether the young person is known to the Host YOT may mean that they are in a position to perform this function themselves. Conversely, where the young person is not known to the Host YOT, it may be decided that the Home YOT is better placed to make this contact, but this will depend on the individual circumstances of each case. Liaison and communication is essential and the age and maturity of the child/young person should influence any decision.

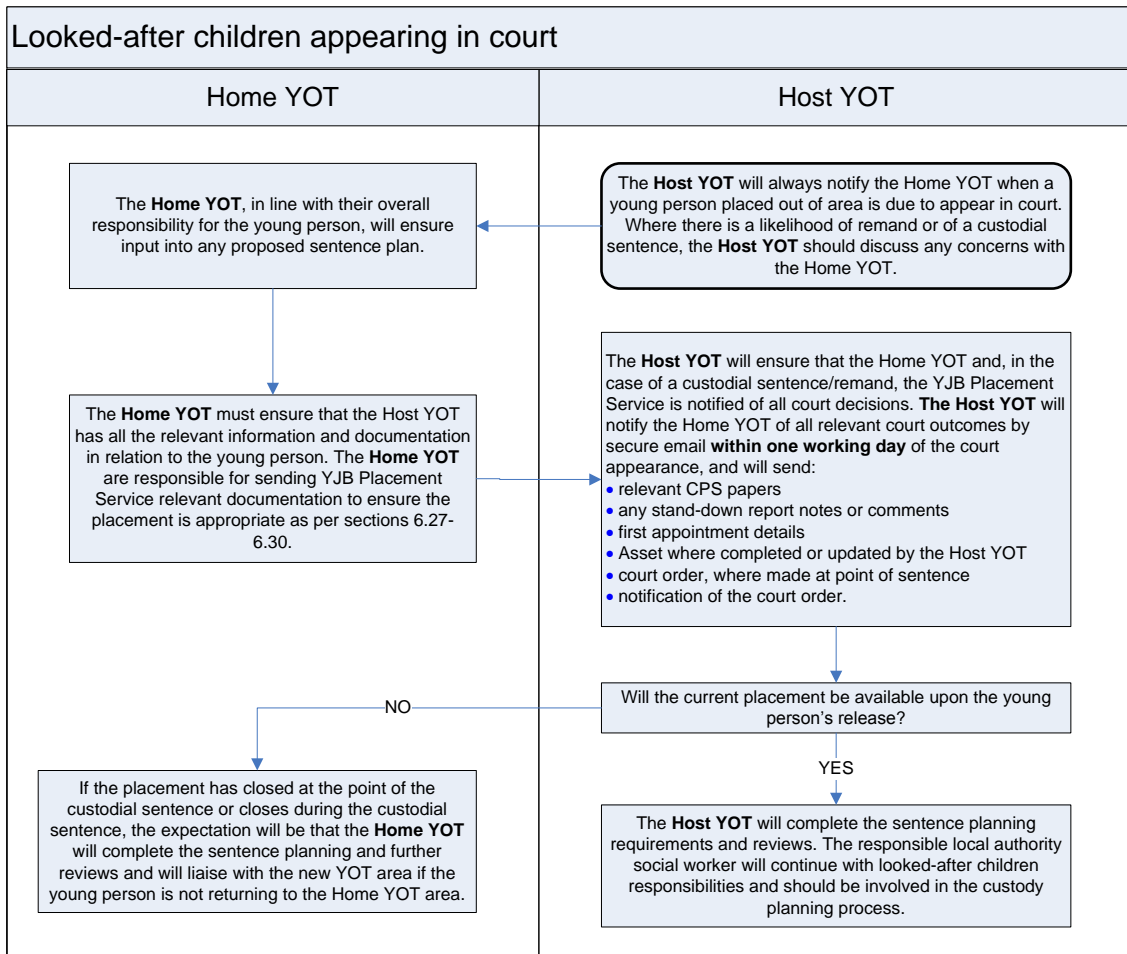
## Looked-after children and pre-sentence reports



- 6.47 The process outlined above makes the assumption that no local arrangement exists between the two YOTs concerned as to the production of pre-sentence reports (PSRs). Subject to discussion, it could be the case, for example, that the Host YOT completes the offence analysis of the PSR and the Home YOT completes the remainder of the report, with reference to the child or young person’s care plan. As stated, this is for the agreement of the YOTs involved. For further guidance, see 6.50.
- 6.48 If a looked-after child is not currently known to the criminal justice system and offends while residing in a Host YOT area, the Home YOT will be responsible for the production of PSRs and any assessments. In some circumstances, depending on the proximity of the placement to the Home YOT, it may be specifically agreed in writing between the YOTs that the Home YOT does not retain such practice functions. However, responsibility will rest with the Home YOT if such agreement cannot be obtained.

## Looked-after children appearing in court and there is a risk of custody

6.49 Where a looked-after child placed out of local authority area appears in a Host YOT's court, and there is a risk of custody (either remand or sentence) the following responsibilities apply.



### **Pre-sentence reports**

- 6.50 The default position is that the Home YOT will be responsible for the production of PSRs. However, where circumstances exist which make this impractical (such as the distance between the Home YOT and a young person's placement), or it is indicated that the Host YOT would be best-placed to complete this function on the basis that they have more information about the young person and have a relationship with them (such as when the young person has been placed with them for a significant amount of time), discussion should take place between the two YOTs and written agreement should be reached as to who will be responsible for producing the report.
- 6.51 It is difficult to cover the multitude of variations and different circumstances which may arise with regard to individual cases, and therefore each case should be judged on its own merits when considering the production of PSRs. Ultimately, the best interests of the young person should remain the priority and dictate the chosen course of action, which must be documented and agreed by both YOTs.

### **Stand-down/specific sentence reports**

- 6.52 In general, stand-down reports (SDRs) and specific sentence reports (SSRs) will only be completed for young people resident in the Home YOT geographical area. The Host YOT can encourage the court to request SDRs with the agreement of the Home YOT where it is agreed that sufficient current information about the child or young person (including about any risks posed to and by them) exists and staff resources allow.
- 6.53 Where an SDR/SSR assessment is being undertaken, if at any time during the assessment it becomes clear that such a report is not in the best interests of the young person (i.e. complexity of needs/risks), the assessment should be stopped and the court should be advised that a PSR is required.

### **Data recording in cases at court**

- 6.54 The Host YOT must take note of the court outcomes for children or young people usually resident outside of its geographical area in order to provide all relevant monitoring information to the Home YOT. The Host YOT may choose not to record this data on their case management system, or to delete it once the Home YOT has acknowledged receipt of it. If the Host YOT chooses to keep this data on its case management system, it must record the young person as 'other' or 'out of area'. A 'transfer in date' and 'transfer out date' is not required in this instance.
- 6.55 Clear recording is essential in determining case responsibility and financial implications in relation to the LASPO Act 2012.

### **Local justice areas**

- 6.56 Once caretaking arrangements have been agreed between the Host and Home YOT, the Home YOT is responsible for an immediate application to court to amend the order to reflect the new local justice area for where the young person will be residing. Amending the local justice area to that of the Host YOT does not amount to the transfer of overall case



responsibility, and is used solely in relation to subsequent enforcement proceedings

- 6.57 Any new court orders made in respect of the young person while resident in the Host YOT area should be made out to the Host local justice area.

## **Post-sentence – Community**

### **Youth Rehabilitation Order/Scaled Approach/revised National Standards for Youth Justice Services**

- 6.58 Due to variations in local provision and resources, some Youth Rehabilitation Order (YRO) requirements may not be available in Host or Receiving YOT areas. Therefore, it is the responsibility of the Home/Originating YOT to communicate with the Host/Receiving YOT prior to transfer to ensure that YRO requirements can be fulfilled. If there is disparity in what can be delivered by the Host/Receiving YOT, then it is the responsibility of the Home YOT/Originating YOT to return the order to court for variation in the order to comply with the Host/Receiving YOT provisions and resources prior to the transfer taking place. The Host YOT/Receiving YOT may need to assist the court with written or verbal confirmation of the requirements available in their area.
- 6.59 The Scaled Approach intervention level allocated by the Originating YOT should be continued by the Receiving YOT until the Receiving YOT has re-assessed the young person's likelihood of re-offending, risk of serious harm to others and their resulting Scaled Approach intervention level. Any alteration in intervention level needs to ensure that a process of defensible decision-making is recorded on the YOT case management system, approved by a manager and the changes communicated clearly to the young person.
- 6.60 Due to the increased flexibility of the revised *National Standards for Youth Justice Services* issued in 2013, different requirements may exist in different areas and therefore Host YOTs and receiving YOTs should communicate, discuss and apply their own agreed standards based upon the young person's likelihood of re-offending and risk of serious harm to others.
- 6.61 It is the responsibility of the Home YOT team to ensure that the electronic monitoring providers are notified and that the necessary applications in respect of a curfew variation are made to the relevant court (for YROs with Intensive Supervision and Surveillance (ISS) and Bail ISS), relevant young offender institution (for Detention and Training Order Notices of Supervision), or to the Ministry of Justice (for Section 91). This process should be completed prior to the transfer of the young person to ensure that there is no interruption in electronic monitoring.

### **Child or young person moving residence within the family**

- 6.62 In cases where a child or young person moves from living with one parent or family member to living with another parent or family member in a different geographical area, such a move will be subject to a stability-testing period of three months. In practice, this entails the Home YOT maintaining responsibility for the case for a period of three months,

including the preparation of any court reports and matters relating to enforcement. However, the day-to-day management of the case should be completed by the Host YOT. See 6.56 for responsibilities in respect of local justice areas.

- 6.63 Where possible, a review meeting should take place at the end of the three-month period to formally hand over case responsibility; the Host YOT will then become the home YOT.
- 6.64 If the placement breaks down within the three-month period, the central point for co-ordinating further youth justice services will be the Home YOT.

#### **Data recording where move is within the family**

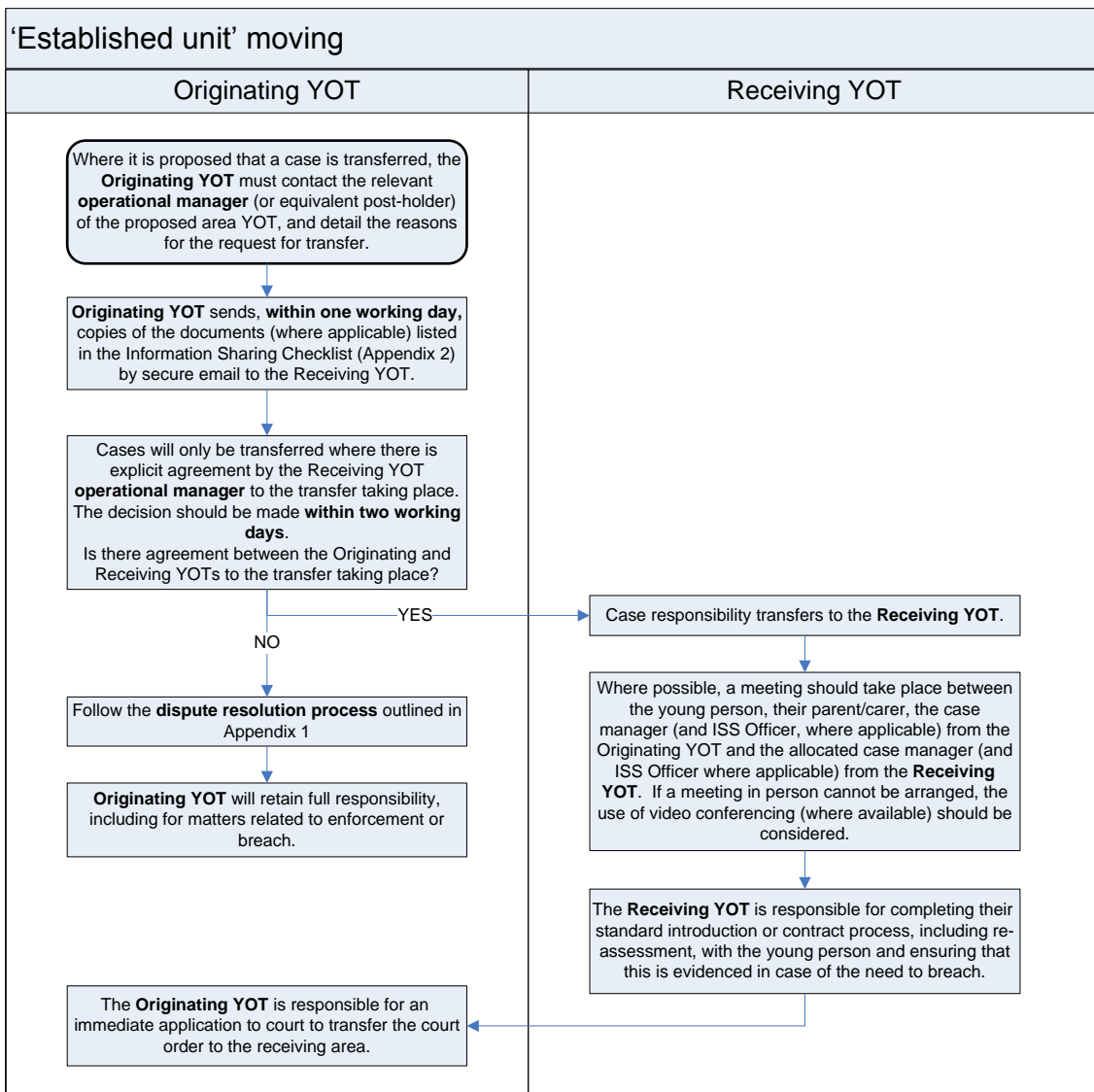
- 6.65 During the three-month stability testing period, the Host YOT will record the young person as 'other' or 'out of area' and the Home YOT will record the young person as 'local'. Once the placement is confirmed, the Home and Host (now Originating and Receiving) YOTs should agree a date which the Originating YOT will record as the 'Transfer out date', and the Receiving YOT as the 'Transfer in date', in line with the YOT Data Recording Guidance. This may be the formal date of transfer, or an earlier date from which, for practical purposes, the young person has transferred pending formalisation of the transfer.
- 6.66 All recording and responsibility will be transferred to the Receiving YOT from this agreed date. The Originating YOT must have a full data record for the young person up to the 'Transfer out date'.
- 6.67 The Receiving YOT must use the 'Originating Young Person ID' field on their case management system to record the YOT area where the young person originates from, in line with YOT Data Recording Guidance.

#### **Established family unit moving<sup>9</sup>**

- 6.68 Where a young person subject to a court order that requires a YOT intervention or programme is living or intending to live in another YOT area, discussion must take place between the two YOTs as to the most effective plan to ensure consistency of supervision. The following process then applies.

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<sup>9</sup> The established family unit is defined by the responsible parent/carer with whom the young person has been residing. Therefore when this established unit moves, it is deemed as these members moving areas together. However this would not include the young person moving by themselves to another parental address (see 8.4).



6.69 Cases must not be transferred where there is a pending breach for failure to comply with a court order. A case where breach proceedings are being, or will be, taken must not be transferred until that process has been concluded.

### Data recording where established family unit moving

6.70 The Originating and Receiving YOTs should agree a date which the originating YOT must record as the ‘Transfer out date’, and the receiving YOT as the ‘Transfer in date’, in line with the *YOT Data Recording Guidance*. This may be the formal date of transfer, or an earlier date from which, for practical purposes, the young person has transferred pending formalisation of the transfer. All recording and responsibility must be transferred to the Receiving YOT from this agreed date.

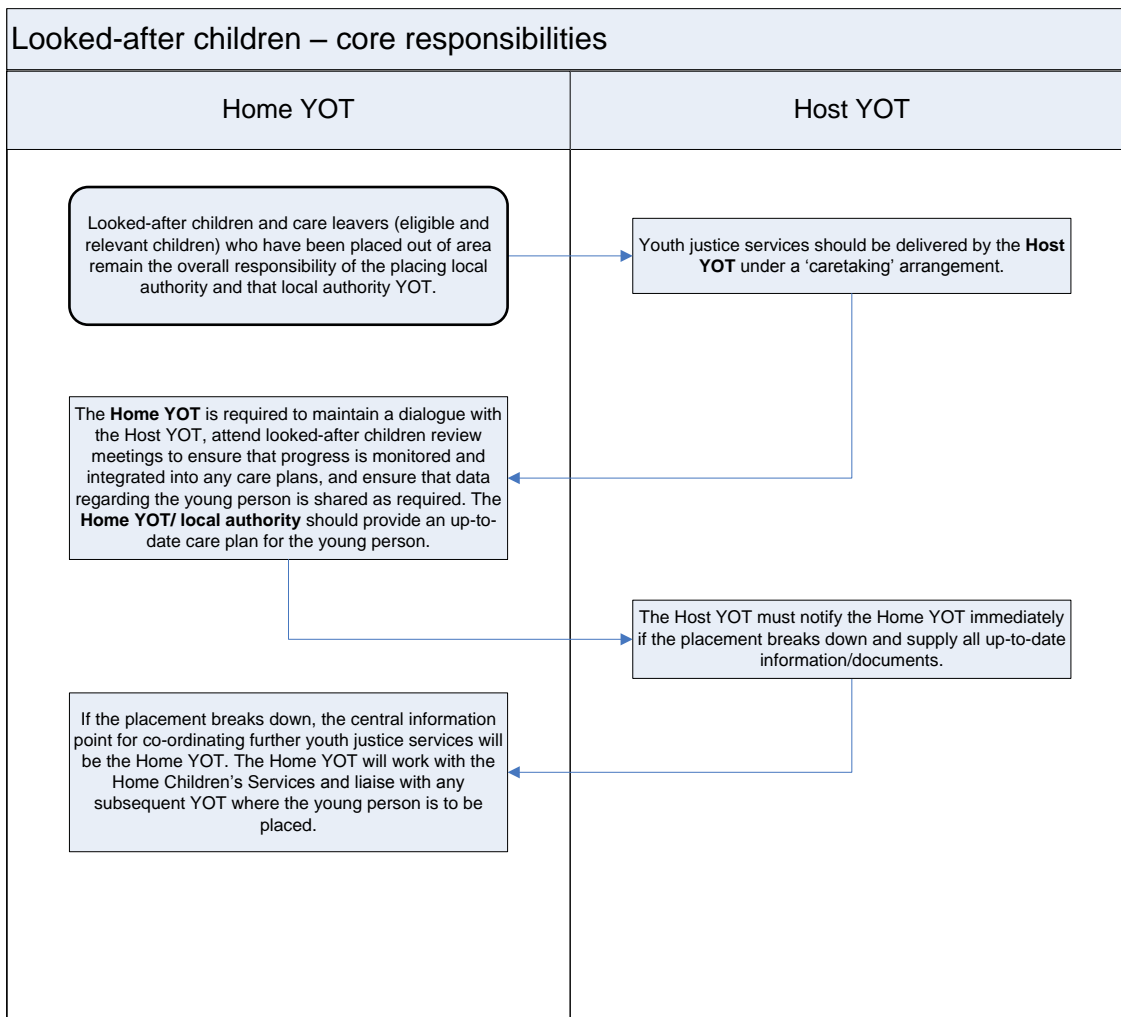
6.71 The Receiving YOT must also use the ‘Originating Young Person ID’ field on their case management system to record the YOT area where the young person originates from, in line with *YOT Data Recording Guidance*.

### **Looked-after children**

- 6.72 Looked-after children, care leavers (eligible and relevant) remain the responsibility of the placing local authority, as corporate parents. The responsible local authority YOT (Home YOT) retains overall case management responsibility to ensure that youth justice processes are centrally co-ordinated during the time that the young person is in care.
- 6.73 The quality of youth justice services should be maintained irrespective of whether a young person is in receipt of caretaking or Home YOT provision.
- 6.74 It is essential that excellent communication strategies are in place so the particular needs of looked-after children who are placed outside of their local area are taken into consideration and inform effective assessment and planning to meet any particular risks or safeguarding concerns.
- 6.75 Cases involving looked-after children shall be subject to the same procedures as outlined in 6.58 to 6.61 with the exception that overall case responsibility cannot be transferred to the Host YOT.
- 6.76 There may be occasions where a looked-after child has been residing in a Host YOT area prior to any involvement in criminal or anti-social behaviour. In such cases, the Host YOT should liaise with the local authority children's services department to ensure any assessments and plans are aligned with child care planning processes. The Host YOT should contact the Home YOT to agree responsibilities and data-sharing information, see sections 6.46-6.47 for further information.
- 6.77 The Home YOT should ensure local arrangements are in place with their children's services department to notify them when a child or young person becomes involved in criminal or anti-social behaviour.

### **Looked-after children – core responsibilities**

- 6.78 With regard to looked-after children who are placed out of borough/area, the following responsibilities apply.



- 6.79 The above responsibilities only apply during the supervision period. If a child or young person offends after the conclusion of the supervisory period, the responsibility for co-ordinating further youth justice services is placed back to the local authority with corporate parenting responsibility (the Home YOT).
- 6.80 The day-to-day responsibilities of the Host YOT should be defined through discussions with the Home YOT (as outlined below in 6.82.) In reaching agreements as to the specific functions they will perform in respect of a case, the YOTs involved should consider what is best for the child or young person and adopt a common-sense approach. For example, factors such as the distance between the Home YOT and the placement should be acknowledged, as well as how long the Host YOT has been involved with the child or young person and how long they are likely to remain in their area.
- 6.81 Ultimately, decisions should reflect the best interests of the child or young person and this must always remain the priority. Agreements between Home and Host YOTs in relation to looked-after children must be recorded and regularly reviewed to ensure that they continue to be in the best interests of the child and that communication between the two YOTs is effective.
- 6.82 The division of responsibilities between the respective YOTs could, for example, resemble the following.

Host YOT	Home YOT
<ul style="list-style-type: none"> <li>• Subsequent assessments</li> <li>• Vulnerability management and associated planning</li> <li>• Risk management and associated planning</li> <li>• Intervention plan (in discussion with Home YOT)</li> <li>• Inform the Home YOT of any non-compliance and, where agreed, list for breach proceedings</li> <li>• Provide updates to the Home YOT, including the passing of data at agreed intervals</li> <li>• Multi-Agency Public Protection Arrangements (MAPPA) co-ordination</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-sentence <i>Asset</i> and reports</li> <li>• Regular contact with Host YOT and input from the young person's care plan</li> <li>• Sentence planning and attendance at reviews</li> <li>• Completion of breach documents</li> <li>• Ensuring YOT activity is fully integrated into the care plan</li> </ul>

*For responsibilities in respect of enforcement see 6.94.*

### Looked-after children and Referral Order Panels

6.83 With regard to Referral Orders, Section 18 of the Powers of Criminal Courts (Sentencing) Act 2000 states that:

*(1) A referral order shall—*

*(a) specify the youth offending team responsible for implementing the order; [in this context implementing the Order means undertaking Host YOT responsibilities for supervising the Order requirements, including day-to-day management of the case and Referral Order Panels].*

*(2) The youth offending team specified under subsection (1)(a) above shall be the team having the function of implementing referral orders in the area in which it appears to the court that the offender resides or will reside.*

6.84 In the case that a young person placed out of area receives a Referral Order, the Host YOT will have responsibility for convening the Referral Order Panel, producing the Referral Order Panel Report and subsequent assessments, in line with their responsibility for implementing the Order. The Home YOT of the responsible authority should ensure contributions are made to the sentence planning process with reference to the young

person's care plan. This should not delay the commencement of the order.

- 6.85 Where a child or young person moves to another area during the term of their Referral Order, the Home YOT shall be responsible for an application to court to amend the local justice area to that of the Host, as outlined in 6.56. The Host YOT is then responsible for the implementation of the order, in line with responsibilities as per 6.82 above, with input from the Home YOT as the responsible authority.
- 6.86 In cases of breach, section 6.94 should be followed below, with the addition that due to Referral Order requirements that a panel should be convened prior to the return to court. Therefore as this is a local process the Host YOT should advise the Home borough that this process is occurring and what the recommendation to and from the panel is. The Host YOT will be responsible for completing any panel report. On confirmation that the case is returned to court the Host YOT should ensure that the Home YOT has all the required information and the Home YOT will be responsible for the completion of the breach report for court, unless other agreements have been arranged prior.
- 6.87 Pre-court panels (where required) should be convened in the Host YOT area, with the subsequent PSR prepared by the Home YOT. This retains consistency between the panel process and presentation of the proposed intervention to the court. If a young person is to be sentenced in the Home YOT area, the Host YOT must convene the panel, and provide information to the Home YOT to aid the preparation of the PSR or prepare the report, where agreement is reached.

#### **Data recording in looked-after children's cases**

- 6.88 The Home YOT must record the child or young person as 'local' on their case management system, and the Host YOT must record the child or young person as 'other' or 'out of area'. The Home and Host YOTs should agree a date which the Home YOT must record as the 'Transfer out date', and the Host YOT as the 'Transfer in date', in line with YOT Data Recording Guidance.
- 6.89 The Host YOT must use the 'Originating Young Person ID' field on their case management system to record that the young person is a looked-after child and the YOT area they originate from. This will allow the YJB to create accurate reports in the Youth Justice Management Information System (YJMIS) for offending and outcomes for looked-after children placed out of area, to aid each YOT in tracking these young people. See YOT Data Recording Guidance for full details.

#### **High-risk children and young people (gangs and MAPPA)**

- 6.90 With any high-risk young people, the Home YOT needs to increase communication and information-sharing to assist the host YOT in meeting the young person's needs (for example, forwarding of relevant work programmes).
- 6.91 The Home YOT should provide a point of contact that can assist the Host YOT with the ongoing supervision of the young person.

## **Community Safeguarding and Public Protection Incidents**

- 6.92 The expectation is that, although one YOT will have responsibility for completing and submitting the Community Safeguarding and Public Protection Incidents (CSPPI) notification and resulting Critical Learning Review, all relevant YOTs that have information to contribute should do so within the Critical Learning Review timescales (10 working days unless otherwise agreed).
- 6.93 The completion of the CSPPI notification documentation will be the responsibility of the YOT that was delivering youth justice services to the young person at the time of the incident. In relation to the completion of any learning reviews (critical, extended or local), consideration should be given to YOT involvement and learning outcomes. All YOTs involved currently or recently in the child or young person's case should be contacted and their input sought. It is essential that there is ongoing dialogue and YOTs should refer to the CSPPI YOT standard operating procedures and seek advice from the YJB where necessary.

## **Breach**

- 6.94 As per 6.56, jurisdiction for caretaking arrangements has been amended to the court area of the Host YOT. The Host YOT must liaise with the Home YOT to agree breach action and, where it is decided upon to instigate breach proceedings, the Host YOT will be responsible for listing the case at court. The Home YOT will be responsible for any subsequent breach report. The Host YOT should ensure that they make input where relevant to the proposal and to the requirements of any new YRO to be made.

## **Release from custody**

- 6.95 Where a child or young person is moving to another area upon release from custody, there should be discussions between the Host and Home YOTs regarding licence conditions. This should adhere to the aforementioned principles relating to safeguarding and public protection. If ISS is being considered as a condition of their Notice of Supervision, the Home YOT should advise the proposed Host YOT and ISS team at the earliest opportunity once the proposed location is known. This may be known at the point of sentence or at any time during the young person's time in custody. Both Home and Host YOT teams should be involved in the planning of the young person's sentence (where their new area is known at the point of sentence) and in the planning for their release.
- 6.96 Where a young person's family ('established family unit') moves while the young person is in custody, either on sentence or remand, and the intention is that the young person will reside with them upon release, the same processes apply as at paragraphs 6.68.
- 6.97 Where a child or young person is moving area to reside with a different family member upon release, the placement will be subject to a three-month stability testing period, as described in paragraphs 6.62 to 6.64.



# Appendix 1: Dispute resolution

Potential disputes regarding case responsibilities should be referred in the first instance to the YOT/service managers in the respective YOT areas, who should attempt to resolve the issues directly.

Should YOT/service managers be unable to resolve the issue, the matter should be referred to the YOT management board chair or a previously agreed lead partner, such as a director of children's services.

YOT managers can refer the issue to their relevant YJB head of business area/ YJB Cymru head of oversight and support, who can offer an interpretation of the guidance if required.

From the point of initial notification of the dispute, a suggested timescale for the process is:

- YOT/service manager resolution in *two working days*
- if still unresolved, escalation through internally agreed management board governance structures in *five working days*
- if still unresolved, locally agreed processes, with bespoke timescales, should be followed, and then notified to the YJB head of business area/YJB Cymru head of oversight and support through the local partnership advisor or YJB Cymru oversight and support advisor.

During a prolonged process, youth justice services must continue to be provided by the Host YOT without prejudice to the final decision. The welfare of the child or young person must remain paramount and any risks they pose to the public addressed until the matter is finalised.

If a young person is in custody during a dispute resolution process, liaison and ongoing communication between the Host YOT, the secure establishment and the YJB Placement Service must take place until the matter is resolved.

In relation to Youth Detention Accommodation Orders, refer to the [Process for Determining the Designated Authority](#) guidance (Ministry of Justice and YJB).

## Appendix 2: Information-sharing checklist

Below is a list of documents which may be required to enable effective case transfer, depending on the young person's circumstances.

Yes	No	N/A	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Up-to-date <i>Asset/Bail Asset</i> documentation
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Current care plan (for looked-after children)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Referral Order contract
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Risk of serious harm (RoSH) assessment
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Risk management plan
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Vulnerability management plan
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The most recent PSR and other relevant reports
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Court order (where appropriate)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Transfer summary/intervention plan
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Custodial sentence plan/release plan
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Previous offending profile/previous convictions
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Notification of outstanding matters – status, dates, crime references etc.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Record of contacts with young person
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Enforcement information in relation to the current sentence (e.g. failures to attend, warning letters) (where appropriate)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Details of work carried out as part of the intervention plan
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	CPS documents in relation to offence for which current order was made (where available)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Information on mental health, education and training, outstanding referrals, involvement of other professional organisations, child protection/care of younger siblings etc.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Other relevant/specific information regarding high-risk cases including MAPPA, Risk Management Panels

- |                          |                          |                          |   |
|--------------------------|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Deter Young Offender (DYO) status and/or integrated offender management information |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Gang intelligence   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Prevention of violent extremism information   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Indication of whether the young person is in the Home YOT re-offending cohort       |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Home YOT ID number  |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Civil actions (ASBO/gang injunctions)   |

