

Youth Justice

What age range do youth courts deal with?

Youth courts deal with charges against young people aged 10-17. Those aged 10-13 are classified as 'children', 14-17 year olds as 'young persons'. Children under the age of 10 are deemed by law to be incapable of being guilty of a crime. Civil care or supervision proceedings such as child safety or child curfew orders or making the child a ward of court may be used for this age group.

Are young people ever tried in adult courts?

Youth courts will deal with all charges against young people, unless:

- ◆ they are charged with a serious crime that, if they were adults, carries a sentence of more than 14 years. These cases go to the Crown Court
- ◆ they are jointly charged with a person aged 18 or over. These cases go to the adult courts.

How do youth courts differ from adult courts?

Youth court proceedings take place in a separate area from the adult court. The magistrates will have undergone special training to sit in youth courts, where procedures are slightly more informal than in adult criminal courts. In order to engage with young defendants, magistrates deliberately

talk directly to them rather than through their legal representative. Sentences are meant to specifically address the needs of young offenders. Young defendants should be accompanied by a 'responsible adult' (this means someone who has care and control of the young person, for example a parent, guardian or carer) when they appear in court unless they are mature enough to be considered independent. All young people appearing in court are entitled to be represented by a solicitor.

Access to the Youth Courts is restricted. This means that there is no public gallery and in most cases there are restrictions on press reporting, for example, the press cannot give identifying details or publish pictures of defendants or young witnesses. However, the magistrates can apply to the Director of Public Prosecutions to dispense with the restrictions in exceptional circumstances. Crime victims can attend hearings, but they must make a request to the court if they wish to do so.

What if a young person reaches 18 during a case?

Once the youth court has agreed to hear the case, they retain jurisdiction unless circumstances change. It may, however, refer to an adult court for sentence after a finding of guilt.

What sentences do youth courts give?

- ◆ **Discharge: absolute** - given when the young person admits guilt or is found guilty, but no penalty is imposed, or **conditional** – no penalty provided that the young person commits no further offence within a specified period. **A**

conditional discharge is now given rarely by the courts.

- ◆ **Fine:** should reflect the seriousness of the offence and the ability of the young person, or of their parent/guardian (if the young person is under 16), to pay. Maximum £250 for child and £1,000 for young person.
- **Compensation order:** requiring the young person or their parent/guardian to pay compensation (up to £5,000) for any injury (physical or mental, and including terror or distress), loss or damage caused. Takes priority over any costs or fine. Available for all ages, but for youths aged 10-15 it is the parent/guardian who has to pay, unless it is unreasonable or they cannot be found. For 16–17 year olds, the parent/guardian may be ordered to pay.
- ◆ **Referral order:** can be given to a young person who pleads guilty to an offence when it is her/his first time in court. Requires the young person to agree a contract of behaviour with their parents/guardians and the victim (where appropriate), addressing the harm caused by the offence and the causes of the offending behaviour. The contract lasts between three and 12 months. The conviction is 'spent' once the contract has been successfully completed. This means that in most circumstances the offence will not have to be disclosed when applying for work.
- ◆ **Attendance centre order:** requires attendance at specified centre. Can last up to 36 hours. The main purpose of attendance centres is to put a restriction on young offenders' leisure time and for such time to be used more constructively. Attendance centres are open on Saturdays for two or three hours. Their programmes concentrate on group work to give attendees basic skills – for example literacy and numeracy, life skills, cookery, first aid, money management, as well as sessions aimed at raising awareness of victim, drug, alcohol related and sexual health matters.
- ◆ **Reparation order:** designed to help young offenders understand the

consequences of their behaviour. They require the young person to repair the

harm caused by their offence either directly to the victim (this can involve victim/offender mediation if both parties agree) or indirectly to the community. Examples include cleaning up graffiti or undertaking community work. Programmes of work are developed by **Youth Offending Teams (YOTs)** and last for a maximum of 24 hours over a period of three months.

- ◆ **Action plan order:** three-month, intensively supervised community service programme focusing on education and involving the young person's parents/guardians. Aimed at addressing the cause of offending. It can include repairing the harm done to the victim or the community or attending an Attendance Centre. Supervised by the Youth Offending Team (YOT).
- ◆ **Supervision order:** lasting up to 3 years. A range of conditions can be attached to the order when the sentence is used for more serious offences. These are called 'specified activities' and can last for up to 90 days. Examples include curfews or being required to live at a specified address, which could be a probation hostel; to attend a probation centre or other activity; or to undergo treatment.
- ◆ **Community rehabilitation order:** For 16/17 year olds only. Equivalent to a supervision order, but for this specific age range. Supervised by a Youth Offending Team (YOT) and can include activities such as repairing the harm caused by their offence and programmes to address offending behaviour, like anger management. Minimum six months – maximum three years.
- ◆ **Community punishment order:** 16/17 only. Unpaid work in the community supervised by probation officer. 40 hours to 240 hours, within 12 months. Work can include carpentry, conservation, working with the elderly.

- ◆ **Community punishment and rehabilitation order:** 16/17 year olds only. Elements of community and community punishment orders. At least 12 months probation and 40-100 hours service.
- ◆ **Curfew order:** requires to remain in a specified place for set periods of time, which can be between 2-12 hours a day, for up to 6 months.
- ◆ **Detention and training order:** For 12-17 year olds. Sentences a young person to custody. Only given by the courts to young people who represent a high level of risk, have a significant offending history or are persistent offenders and where no other sentence will manage their risks effectively. The seriousness of the offence is always taken into account. The length of the sentence can be between four months and two years. The first half of the sentence is spent in custody while the second half is spent in the community under the supervision of the Youth Offending Team (YOT). The court can require the young person to be on an Intensive Supervision and Surveillance Programme (ISSP) as a condition of the community period of the sentence. The Court takes time spent on remand into account before passing sentence.
- ◆ **Drug treatment and testing order:** for those aged 16 and over who are dependent on drugs and likely to benefit from treatment. Lasts between 6 months and 3 years. The young person consents to an order requiring that they undergo drug treatment and regular testing by a drug treatment provider and is supervised by the probation services. Reviews take place monthly, following which changes can be made to the order.
- ◆ **Binding over:** a young person or her/his parent/guardian can be bound over to be of good behaviour, i.e. to promise not to offend on pain of forfeiting a sum of money fixed by the court.
- ◆ **Anti-social behaviour order (ASBO):** a civil order which can incur criminal sanctions if breached. Can be used against anyone who is 10 years of age or over and has behaved in a manner that caused or was likely to cause harassment, alarm or distress to someone not living in the household. An ASBO stops the young person from going to particular places or doing particular things. The minimum duration is two years and the maximum period is five years. 10-17 year olds can have an **individual support order (ISO)** attached to their ASBO, which imposes positive conditions aimed at addressing the underlying causes of the offending behaviour. An ISO lasts up to six months and can require a young person to attend up to two sessions a week under the supervision of the YOT. Breach of an ISO is a criminal offence and can be punished by a financial penalty.
- ◆ **Child safety order:** only for children under 10 who have committed an offence, breached a local Child Curfew or caused harassment, distress or alarm. A social worker or officer from the YOT supervises the child. If the order is not complied with, the parent can be made the subject of a parenting order. **Parenting orders** can require parents/carers to attend counselling and guidance sessions where they receive help in dealing with their children if they have offended, been truant or have received a Child Safety Order, Anti-Social Behaviour Order or Sexual Offences Prevention Order. Sessions last up to three months. Parents may also have other conditions imposed on them such as attending meetings with teachers or ensuring their child does not visit a particular place unsupervised or ensuring their child is at home at particular times. These conditions can last for a period up to 12 months. Parenting orders do not result in the parent/carer getting a criminal record but failure to keep to the terms of an order can lead to prosecution.
- ◆ **Sex Offenders Notification:** requirement to notify the police when found guilty of certain sexual offences. The offender must attend a specified police station within three days of the order being made (or within three days of release if sentenced to custody). The offender must inform the police of their name, date of birth, home address and national insurance number. They must also notify

period of seven days or more in any 12 month period, or if they intend to leave the UK. The length of the registration period differs according to the sentence received: custodial sentence of more than six months – five years; custodial sentence of six months or less, or in cases of detention in hospital under mental health legislation – three and a half years; any other sentence – two and a half years.

◆ **Sexual Offences Prevention**

Order: can only be made following an application by the Chief Officer of Police in respect of a convicted sex offender or on finding of guilt for a relevant offence. The court must be satisfied that an order is necessary to protect the public, or any particular members of the public, from serious sexual harm from the defendant. The effect of the order is to protect the public from the risks posed by placing restrictions on the defendant's behaviour. It is for the court to decide what prohibitions are reasonable in light of the evidence. Minimum duration is five years; there is no upper limit.

- **Deferred sentence:** available for all youths. Sentencing can be postponed for up to 6 months but court must be satisfied it is in the interests of justice to do so. Conditions may be attached to the terms of a deferred sentence. The offender should be set targets they can achieve during the period of deferment. If the defendant complies, they can expect a lower sentence than would otherwise be imposed. Used sparingly.

What is a Youth Offending Team (YOT)?

There is a YOT in every local authority in England and Wales. The teams are made up of representatives from the police, probation, social services, health, education, drugs and alcohol misuse and housing officers. YOTs work to identify the needs of each young offender and the problems that make the young person offend, as well as measuring the risk they pose to others. They devise programmes aimed at addressing such needs so that the young person can be rehabilitated through education, training or employment, drug rehabilitation, mental health assessment

and treatment, and/or provision of accommodation.

What is the Youth Justice Board (YJB)?

The Youth Justice Board oversees the youth justice system in England and Wales. It works to prevent and reduce offending by children and young people under the age of 18, and to ensure that custody for them is safe and secure and addresses the causes of their offending behaviour. Its aims include the promotion of good practice by commissioning research and awarding grants for the development of good practice; acting as a budget holder for all secure facilities for young offenders; the control of resources and the dissemination of information about local initiatives nationwide.

Can young offenders get bail?

Adult bail provisions apply to people from the age of 17, who can be bailed with or without conditions or remanded in custody to a prison or remand centre. People below 17 can be bailed with or without conditions, into local authority accommodation or, very occasionally, into custody (secure remand). Conditional bail can range from having to report to a police station to much more demanding levels where the young person is supervised by a YOT on a bail support and supervision programme. Such programmes can include electronic tagging and/or intensive supervision and surveillance programmes (ISSPs).

The court designates which local authority to remand the young person to. This is usually where s/he lives or where the offence was committed. The court may place requirements on the local authority which ensure compliance with conditions. Young people can be remanded in custody (usually in secure children's homes or secure training centres) if the court considers that their offences are particularly serious or if they have offended frequently.

Can a young offender be cautioned rather than charged?

A first offence can be met with a reprimand, a final warning or criminal charges, depending on the seriousness of the offence. Reprimands are formal warnings given by a police officer to a young person who admits

they are guilty of a minor first offence. Final warnings are given for either first or second offences. Those receiving final warnings are referred to YOTs for assessment, to determine the causes of their offending and whether a rehabilitation programme is appropriate to help prevent reoffending. Non-compliance with programmes set up as a result of a final warning will be noted and brought before the court in any future proceeding. In some circumstances young people receiving a reprimand may also be referred to the YOT, but their participation in a programme is voluntary.

Custody

The main custodial sentence is the Detention and Training Order, but for more serious offences a young person may be given a sentence under Section 90/91 (only issued by Crown Courts). The YJB is responsible for placing young people in appropriate secure accommodation and setting the standards for these facilities. They try to locate young people as close to home as possible.

There are three types of custody in which a young person can be placed: secure training centres (STCs), secure children's homes, young offender institutions (YOIs). Secure training centres are purpose-built centres for young offenders up to the age of 17. They are run by private operators under contracts, which set out detailed operational requirements.

Secure children's homes are generally used to accommodate young offenders aged 12 to 14, girls up to the age of 16 and 15 to 16-year-old boys who are assessed as vulnerable. They are run by local authority social services departments and overseen by the Department of Health and the Department for Education.

Young offender institutions are run by both the Prison Service and the private sector and can accommodate 15 to 21-year-olds. 15 to 17-year-olds are held in units that are completely separate from those for 18 to 21-year-olds.

The YJB have an assisted family visits scheme, which helps families to visit children on a weekly basis. The scheme covers visits to STCs, secure children's homes, the Carlford

Unit at Warren Hill YOI and the Oswald Unit at Castington YOI. The Prison Service runs its own separate scheme for the families of other young people placed in YOIs.

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