

This is a Working Protocol Example.

It covers the main partner's roles and the key issues.

This example can be used as a template, but will need to be adapted for local circumstances

1. Purpose of this protocol

1.1 This protocol provides a framework for consistent and equitable practice in relation to bail and remand assessments and decisions by the Courts, Crown Prosecution Service, and the Youth Offending Teams. It reflects the complexity of bail and remand options, and the range of assessments that might be undertaken by the YOTs. This protocol applies to the following remand provisions

- a) Conditional bail with a requirement of electronic monitoring
- b) Conditional bail with bail supervision (with or without a requirement of electronic monitoring)
- c) Conditional bail with ISS bail supervision (with or without a requirement of electronic monitoring or voice verification)
- d) Remand to local authority accommodation
- e) Remand to local authority accommodation with conditions (with or without a requirement of electronic monitoring)
- f) Remand to local authority accommodation with ISS requirements (with or without a requirement of electronic monitoring or voice verification)
- g) Remand to local authority accommodation with security requirement
- h) Remand to custody

1.2 This protocol does not refer to bail with a condition to reside in an approved bail hostel, as the National Probation Service has indicated that 17 year olds will not be provided with places.

2. The role of the Youth Offending Team

- 2.1 The YOT will provide objective assessments of the level and nature of risk posed by the young person; any personal circumstances of the young person that may reduce this risk; the potential for interventions to promote existing protective factors or otherwise manage risk; the likelihood of compliance with requirements in the light of the young person's history; and the YOT's view of the most effective means of addressing risk.
- 2.2 Assessments will be based on the systematic use of Bail ASSET, the Youth Justice Board's risk assessment framework, and will include assessments of the risk of serious harm and vulnerability where relevant.
- 2.3 The results of the YOT's assessment will be summarised in a bail information report that will include proposals to address the risks identified in the assessment. The CPS will take this into consideration in deciding the final application to the Court. Copies of the bail information report will be provided to the defence solicitor, and to the Court on request.
- 2.4 Where there has been no significant change in the circumstances of the young person or their offending behaviour, the bail information report may be based on previous Bail or Core ASSET assessments carried out by the YOT. These will be updated as necessary from the YOT's information systems and interview of the young person. (Timescale of use must be outlined i.e. how old the assessment is)
- 2.5 The YOT will provide a service for occasional courts (Saturday and occasional courts scheme can be detailed here), and will endeavour to provide the full range of assessments and services wherever possible. Resource and time constraints may limit the extent to which this is practicable.

3. The role of the Crown Prosecution Service

- 3.1 CPS will provide the YOT with information at the earliest opportunity regarding
 - a) The nature of its intended application and reasons for it
 - b) The details of offence, and any available information regarding the young person's offender's circumstances and history.
- 3.2 On completion of the bail information report, CPS will consider its content and conclusions before deciding the final application that will be made to the Court.
- 3.3 CPS will ensure that the YOT is advised of any applications (whether from CPS or defence) to vary conditions of bail or remand to local authority accommodation, to ensure that the YOT is able to attend if it has information that may be relevant to the Court's decision.

4. The role of the Court

- 4.1 Where it is practicable to do so, the Court will allow the YOT sufficient time to complete the assessments required in the circumstances of the case, and to prepare a bail information report. Before calling on a case where an assessment has been commenced but not completed, the Court will be advised to obtain the view of the YOT on how long it will take to complete before it decides that it is impracticable to delay the case any further.

- 4.2 The Court is responsible for all remand decisions. Whilst the CPS application, defence representations, and the YOT's proposals and advice will inform this decision, it will not be determined by them.

5. Conditional bail and remand to local authority accommodation with a requirement of electronic monitoring

- 5.1 Electronic monitoring of compliance with bail conditions (12 to 17 year olds) and conditions of remand to local authority accommodation (12 to 16 year olds) is available where a young person has been
- a) Charged with or convicted of a violent or sexual offence, or one imprisonable by 14 years for adults OR
 - b) Charged with or has been convicted of one or more imprisonable offences which, together with any other imprisonable offences of which he has been convicted in any proceedings, amount, or would, if he were convicted of the offences with which he is charged, amount to a recent history of repeatedly committing imprisonable offences while remanded on bail or to local authority accommodation
- AND in either case (for 12 to 16 year olds only)
- c) The YOT advises the court that electronic monitoring is suitable.
- 5.2 The Court cannot impose a requirement of electronic monitoring until an assessment has been completed by the YOT, and may refuse bail until such time as it is possible to do so.
- 5.3 Wherever possible, the YOT will complete assessments of suitability within the same day. Where a young person has been brought to court during the morning session, it will usually be possible to complete the assessment within the same day. If they are not brought to court until the afternoon, it may not be possible to complete the assessment until the following working day.
- 5.4 It is for the Court to decide as a matter of fact whether a young person has a recent history of repeatedly committing imprisonable offences. The YOT will carry out assessments in advance of the Court's decision where the defence and CPS agree that the criteria are met. In other cases, assessments will not be carried out until the Court has decided on this issue, to avoid unnecessary delay and make the best use of YOT resources.
- 5.5 Without prejudice to the Court's power to impose requirements of electronic monitoring of bail conditions where the statutory criteria are satisfied, they will generally be used where
- a) The Court is satisfied that a curfew without electronic monitoring will not be sufficient to prevent further offending, or where there is a history of failing to comply with curfews without monitoring.
 - b) A requirement of bail supervision has been imposed, to ensure that compliance is encouraged and promoted.
- 5.6 Without prejudice to the Court's power to impose requirements of electronic monitoring of conditions on a remand to local authority accommodation, they will generally be used where
- a) The young person has previously been remanded to local authority accommodation and has either absconded or failed to comply with curfew conditions or
 - b) The Court is satisfied that electronic monitoring is required to ensure the protection of the public from the risk of further similar offences, or the young person's circumstances or attitude suggests that they will not comply with curfew requirements or the discipline of the remand placement without electronic monitoring.
- 5.7 The YOT's assessment will advise the Court on whether electronic monitoring is

- a) Suitable for the young person in terms of: their access to accommodation where the monitoring equipment (and a telephone line if necessary) can be installed; medical fitness; risk to, or from, other members of the household that would be aggravated by the use of electronic monitoring; and educational and employment commitments, religious observances, or requirements of other community sentences.
- b) Necessary and purposeful for the young person in terms of: the feasibility of compliance; the young person's previous behaviour whilst subject to conditional bail or remand to local authority accommodation; the ability of parents or carers to ensure compliance and report breaches; other personal or family circumstances; the availability of other options to ensure compliance with conditions or reduce the risk of re-offending; the effect on other aspects of the young person's activities; and the relevance of electronic monitoring to offending behaviour.

5.8 In the case of 12-16 year olds, the Court will only be able to impose a requirement of electronic monitoring where it is advised by the YOT that such a requirement is suitable for the young person. In relation to 17 year olds, the YOT will carry out the same assessment of suitability, but it is for the Court to decide what weight should be given to the YOT's advice.

5.9 In relation to remands to local authority accommodation, the YOT cannot assess the suitability of electronic monitoring until the local authority has identified a placement for the young person. Where the Court is considering a remand to local authority accommodation with a requirement of electronic monitoring, it will normally be necessary for the case to put back for a placement to be identified and an assessment carried out of its suitability for electronic monitoring. In these circumstances, the Court will be advised to delay announcing its decision until the assessment is completed, to ensure that it is able to consider its other remand options if electronic monitoring is not suitable.

5.10 The contractor will report all substantial breaches (Level 1 violations in Home Office Guidance) to the police, and the young person will be arrested and brought before the Court. Minor damage to, or tampering with, the equipment (Level 2 violations) will not be regarded by the Court as a breach of the condition, and where contacted by the contractor, the YOT will advise the contractor of this and that it should consider criminal or civil action in relation to the damage to the equipment.

6. Bail with a condition of bail supervision

6.1 In all cases where a bail assessment is being made and a bail information report completed, the YOT will consider the necessity for and suitability of bail supervision. Bail supervision programmes will be proposed where the YOT is satisfied that the young person is suitable and compliance is feasible, and will not otherwise be offered to Courts. Where the YOT is not prepared to provide a bail supervision programme, the reasons for this will be given in the bail information report. Where a bail supervision programme is proposed by the YOT, it is for the court to decide whether the level of restriction of liberty it involves is proportionate to the risks posed by the young person.

6.2 Assessments for bail supervision will be completed within the same day wherever possible. This may not be possible in all cases – for example, where further information is necessary to assess risk, or where access to specific resources intended to address risk is needed which cannot be confirmed on the day. In these circumstances, the Court will be advised to remand the young person in another way to the earliest date when the assessment can be completed.

6.3 The objectives of bail supervision are to

- a) Prevent offending on bail and manage the risk a young person presents to the public
- b) Ensure the young person's attendance at subsequent appearances
- c) Prevent unnecessary remands to local authority accommodation (with or without a security requirement) and custody

6.4 Although young people who are at risk of a remand to local authority accommodation or secure facilities are the main target group for bail supervision, it may also be used as an alternative to other bail conditions (for example, curfews, non-association and geographical restrictions) where the restriction of liberty is equivalent, and it appears to the Court that bail supervision offers a more appropriate and targeted means of managing the identified risk.

6.5 The YOT will provide three levels of bail supervision

- a) ISSP bail supervision will be proposed for those who are eligible, where the restriction of liberty is proportionate to the identified risks or to the Court's likely alternative course of action. ISSP bail supervision requires a minimum programme of 25 hours per week, and the young person's whereabouts must be checked twice a day.
- b) Standard bail supervision will be proposed for those who are not eligible for ISSP bail supervision, and/or where the restriction of liberty would not be proportionate to the identified risks or to the Court's likely alternative course of action. Standard bail supervision requires a minimum of three contacts per week.
- c) Bail supervision will be available for the specific purpose of ensuring attendance at future court appearances, where the level of contact will be determined by the needs of the individual case, and will not necessarily meet the national standard requirement of 3 contacts per week.

6.6 Young people who are at risk of a remand to secure facilities and

- a) Have been charged with an offence imprisonable by 14 years for adults, but do not present a serious or likely risk of harm or
- b) May be deemed to have a recent history of repeatedly committing offences on bail or remand to local authority accommodation

are eligible for ISSP but will be initially assessed for standard bail supervision, to ensure proportionality in terms of the restriction of liberty that results. If the Court decides that standard bail supervision does not provide a sufficient safeguard to prevent the risk of further offences on bail, the YOT will assess the young person for ISSP bail supervision within the same day where possible, or by the next appearance.

6.7 Young people who are not at risk of a remand to secure facilities will be assessed for standard bail supervision. The YOT will also assess the need for bail supervision to ensure attendance at court in all cases where

- a) The young person has been arrested on a warrant for failure to attend court, and has at least one previous incident of failure to attend court or
- b) CPS indicates that it is intending to apply for bail to be refused in order to ensure the young person's attendance at court.

- 6.8 Where the YOT is satisfied that a breach of a bail supervision requirement has occurred, it will report the breach to the police immediately. The YOT will continue to attempt to secure compliance to ensure that the identified risks are minimised. It is for the Court to decide whether any compliance subsequent to a breach justifies the continuation of the bail supervision programme.

7. Remands to local authority accommodation

- 7.1 Remands to local authority accommodation are available where children and young people aged 10 to 16 are refused bail. They may also be used for 17 year olds who are in breach of community sentences, and are refused bail prior to revocation or sentence.
- 7.2 Conditions may be imposed on the young person as if they were being granted bail. Where the Court is considering the imposition of conditions on a remand to local authority accommodation, it will be advised to consult the YOT regarding their practicability and value. Requirements may be placed on the local authority to secure a young person's compliance with conditions, or to prevent their placement with a named person. The Court does not, however, have power to direct where a young person will be placed, and must consult the local authority before imposing any requirements on it.
- 7.3 Where the Court is considering remanding a young person to local authority accommodation, whether or not this has been canvassed as a remand option by the defence or CPS, it will be advised to allow the YOT the opportunity to make representations prior to a decision being reached.

8. Remands to local authority secure accommodation – Court Ordered Secure Remand (COSR) and remands into custody.

- 8.1 Remands to local authority accommodation with a security requirement are available where a male aged 12 to 14 years old, a female aged 12 to 16 years old, or a male aged 15 to 16 years old who is deemed to be vulnerable by the Court is
- a) Charged with or convicted of a violent or sexual offence, or an offence imprisonable by 14 years in the case of an adult or
 - b) Charged with or has been convicted of one or more imprisonable offences which, together with any other imprisonable offences of which he has been convicted in any proceedings, amount, or would, if he were convicted of the offences with which he is charged, amount to a recent history of repeatedly committing imprisonable offences while remanded on bail or to local authority accommodation

AND in either case

- c) The Court is satisfied, having considered all other options for their remand, that only a secure remand will be adequate to protect the public from serious harm, or to prevent the commission of further imprisonable offences.
- 8.2 Remands to custody in YOIs are available for 15 and 16 year old boys who meet the criteria outlined in 8.1 above, and who are not deemed vulnerable in terms of section 9 below; and for young people aged 17.

- 8.3 The fact that a previous Court has remanded a young person who satisfies a) or b) above on bail or to local authority accommodation in the proceedings, does not prevent a subsequent Court re-considering the need for a remand to secure facilities if the young person breaches bail or remands conditions, fails to attend court, or otherwise behaves in a way (for example, by absconding from local authority accommodation) that suggests that c) may now apply.
- 8.4 Before the Court can be satisfied that the criteria for a secure or custodial remand are met, it must consider all other options for the young person's remand. In the bail information report, the YOT will have assessed all options that appear to it will be relevant, based on the young person's offending, circumstances and history, and the likely CPS application. Where the Court requires consideration of further options that have not been addressed in the bail information report, it may be necessary for the case to be put back to allow further assessments to be made.
- 8.5 Where the Court is considering a COSR, it will be advised to obtain information from the YOT about the availability of accommodation prior to reaching a decision. If the YOT has not checked availability with the Youth Justice Board prior to the case being called, the case may need to be stood down for a short time to allow this to be done. Where the Court is advised that a place is not available for a 12 to 14 year old male or a 12 to 16 year old female, it may take this into consideration in making its decision. Where it decides that a secure remand is necessary, it is for the YOT, in conjunction with the YJB and the relevant Children's Services, to ensure that appropriate arrangements are made.

9. Vulnerability assessments for 15/16 year old boys

- 9.1 15 and 16 year old boys may be remanded to local authority secure accommodation where they
- a) Satisfy the statutory criteria in 8.1 above and
 - b) Are physically or emotionally immature, or have a propensity to self-harm, such that it would be undesirable to remand them to a prison establishment, and
 - c) A place is available for the particular young person in secure local authority accommodation
- 9.2 The YOT will assess every 15 or 16 year old boy who is at risk of remand to custody for vulnerability in terms of whether they are physically or emotionally less mature than their peers to an extent that would be likely to cause significant difficulties additional to those which anyone of their age group would be likely to face if remanded to custody, or have a propensity to self-harm. Its conclusions and reasons for it will be included in the bail information report.
- 9.3 In the light of the YOT's advice and other information before it, it is for the Court to decide whether or not the young person is vulnerable in these terms. Where it indicates that it is satisfied that a young person meets the criteria, the YOT will make reasonable efforts to ascertain whether a place is available for the particular young person by contacting the YJB placements service.
- 9.4 If a place is not available for the particular young person, the court must remand the young person to custody.

- 9.5 Recognising that vulnerability in this context is a fluid concept, and may change over a period of time, the YOT will reassess vulnerability at each subsequent appearance, and will provide the Court with any information about changes in circumstances that may affect its view of the young person's vulnerability.