



Department  
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**Local authority responsibilities towards children  
looked after following remand: consultation on  
changes to the Care Planning, Placement and Case  
Review Regulations 2010**

# **Local authority responsibilities towards children looked after following remand: consultation on changes to the Care Planning, Placement and Case Review Regulations 2010**

This consultation seeks views on proposals to amend the Care Planning, Placement and Case Review (England) Regulations 2010. The amendments are necessary to take into account the particular circumstances of children who have been remanded into either local authority or youth detention accommodation (YDA). Following the commencement of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPOA), local authorities will have responsibilities towards all such children and young people as they will all now be looked after.

*Under s104(1) of LASPOA, a child who is remanded to youth detention accommodation is to be treated as looked after by the local authority designated by the court. Youth detention accommodation is accommodation in a secure children's home, a secure training centre, a young offenders institution and accommodation specified by order under section 107 of the Powers of Criminal Courts (Sentencing) Act 2000 (youth detention accommodation for purpose of detention and training order provisions) (s102 LASPOA).*

**To** Local authority childrens and youth justice services and providers of youth detention accommodation

**Issued** 9 January 2013

**Enquiries To** If your enquiry is related to the policy content of the consultation you can contact Claire Owens by telephone: 01142 742712 or email: [CarePlanning.CHANGES@education.gsi.gov.uk](mailto:CarePlanning.CHANGES@education.gsi.gov.uk)

## **Contact Details**

If you have a query relating to the consultation process you can telephone: 0370 000 2288 or use the '[Contact Us](#)' page.

## 1 Executive Summary

- 1.1** This is a consultation by the Department for Education with local authorities, their partner services and all providers of services for children involved with the youth justice services, including providers of youth detention accommodation, about how local authorities might effectively carry out their functions under the Care Planning, Placement and Case Review (England) Regulations 2010 (the 'Care Planning Regulations') towards children on remand, who following the commencement of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPOA) will all be looked after.
- 1.2** Many looked after children are involved with the youth justice system. There are already looked after children in custody who are entitled to ongoing local authority support during their detention and on release. Chapter 8 of Children Act Guidance (volume 2) Care Planning, Placement and Case Review provides extensive guidance about how local authorities are expected to respond to the needs of this group [Care Planning Guidance](#). Chapter 6(c) of Children Act Guidance (volume 3) Planning Transition to Adulthood for Care Leavers provides similar guidance on meeting the needs of care leavers [Transition to Adulthood Guidance](#).
- 1.3** In the main, local authorities will be under the same care planning and review duties in relation to children who become looked after as a result of being remanded. However, this document consults on proposals to modify the current arrangements for care planning and review in a number of respects. These modifications are necessary to take into account:
- a) that the decision to remand a child, therefore making them looked after (if they were not already looked after prior to remand) is made by a court, rather than by the designated local authority that will have duties towards them. This decision may be made at short, or no, notice for the local authority concerned;
  - b) that local authorities may only have very short-term relationships with remanded looked after children, lasting only for the period they

remain remanded;

c) that where a child is remanded in youth detention accommodation (YDA), the child will not be placed by the authority that is looking after them, rather they will be placed by the Youth Justice Board's Placement Service acting on behalf of the Secretary of State (for Justice). In these circumstances the local authority responsible for the child does not have control over the day to day arrangements necessary to safeguard them and promote their welfare – including arrangements for their education/training and health care.

**1.4** We propose amending the Care Planning Regulations by inserting a new Part which sets out how local authorities' care planning duties are modified in relation to children on remand, whether they are remanded to local authority accommodation, or to YDA.

**1.5** We will, in future, revise guidance concerning wider local authority responsibilities towards looked after children involved with the youth justice system. This will provide an opportunity to restate how the interface between children's and youth justice services can best be managed for this very vulnerable group of young people. As part of this process too we will be considering whether consequential amendments are needed to other sets of Regulations concerning looked after children and care leavers.

## **2 Background and Context**

### **2.1 Remand and looked after children**

Children aged 10 and 11 who have been refused bail may be remanded to local authority accommodation. 12 -17 year olds who have been refused bail may also be remanded to local authority accommodation or to YDA if the relevant criteria are met. In the case of children who were not already looked after, this will give them the status of a looked after child under s21 of the Children Act 1989 for the duration of the remand.

**2.2** Children remanded to local authority accommodation may be subject to a set of conditions set by the court, such as being electronically monitored or being required to comply with a general curfew.

**2.3** We are not proposing to make any changes to Regulations where a child is already looked after, and is then remanded to local authority

accommodation. In these circumstances we propose that the Care Planning Regulations will apply without modification.

- 2.4** Where a child who is not looked after is remanded to local authority accommodation, we are proposing to make some minimal changes to the Care Planning Regulations. It will be the responsibility of the local authority to identify a suitable placement for them in accordance with their duties in section 22C of the Children Act 1989; and for as long as they remain looked after, these children are entitled to the same care planning and review processes as other looked after children although we are proposing that the local authority need not prepare a “long term plan for the child’s upbringing (“a plan for permanence”) as required by regulation 5 (a) of the Care Planning Regulations.
- 2.5** Where a child is already looked after and is then remanded to YDA, we are proposing a number of modifications to the current care planning framework.
- 2.6** In particular, instead of a placement plan, his care plan must include a ‘Detention Placement Plan’ which sets out how the YDA will contribute to meeting the child’s needs during the period of remand in custody.
- 2.7** In a similar way, where a child is *not* already looked after, and becomes looked after as a result of remand to YDA, we propose in particular to remove the duty on the local authority to prepare a full care plan, and instead to require that they prepare a ‘Detention Placement Plan’ that will set out how the child will be safeguarded and their welfare promoted by the YDA whilst they are detained on remand and which will include arrangements for supporting the child when the remand ceases.
- 2.8** The Legal Aid, Sentencing and Punishment of Offenders Act (Children Act 1989) (Children Remanded to Youth Detention Accommodation) Regulations 2012 [S.I. 2012/2813] has already amended some of the duties of LAs towards children remanded in YDA. The placement and review duties in sections 22C and 22D of the Children Act 1989 have been disapplied in relation to a child who is remanded to YDA and is treated as looked after.

### ***Consultation Question***

***Q1: Do you accept that the framework of care planning and review for looked after children, as described in the rest of this***

*document, requires modification to take into account the circumstances of children who as a result of the remand framework introduced by the LASPOA will become looked after?*

### **3 Planning for remanded looked after children**

#### **3.1 Children remanded to local authority accommodation**

**3.1.1** Children could be remanded to local authority accommodation under the former remand framework. Though the revised framework introduced by the LASPOA does mean that 17 year olds may now be remanded to accommodation provided by the local authority.

**3.1.2** At the point at which a young person is remanded to local authority accommodation the member of the Youth Offending Team attending the court will initially establish and then notify the local authority designated in the order about the details of their remand. The designated authority will usually be the authority covering the area where the child habitually resides. (If the child was already looked after the designated authority would be the authority already responsible for the child's care).

**3.1.3** The court does have the power to designate the authority where the offence was committed. To avoid possible duplication we propose that for care planning purposes, the responsible local authority is the one designated in the order (draft regulation 47A (2)(d)).

**3.1.4** Where the child is remanded to local authority accommodation, the designated authority will need to determine the most appropriate placement based on the information that is available about the child's needs.

#### **3.2 Children who are already looked after**

**3.2.1** Since looked after children are already accommodated by the authority responsible for their care, it is unlikely, that many such children would then be remanded to local authority accommodation and we are not proposing to modify the Care Planning Regulation's for this group. But if a child who is already looked after is remanded their placement plan must be prepared, or revised, within 5 working days of the remand (draft regulation 47C(3)). This requirement mirrors the requirements of regulation 9(2) in the Care Planning Regulations.

### **3.3 Children remanded to local authority accommodation who were not previously looked after**

- 3.3.1** Where a child is not already looked after when they are remanded to local authority accommodation, their care plan and a placement plan must be prepared within 5 working days of the remand (draft regulations 47B(2)(a) and 47C(3)). However, given that the child is only looked after by virtue of their remand, we propose that the local authority should not be under a duty to prepare a long term plan for the child's upbringing i.e. "the plan for permanence" (draft regulation 47B(2)(b), which disapplies regulation 5(a) of the Care Planning Regulations.
- 3.3.2** Local authorities will already have processes for responding to young people who become looked after at very short notice. We do not propose that local authority responsibilities for young people who are remanded to local authority accommodation should be substantially different to their responsibilities towards other groups of young people who may well have very similar needs.
- 3.3.3** We propose that given the evidence about the vulnerability of young people in the youth justice system it will be important that, apart from the disapplication of the duty to prepare a plan for permanence explained above, all the other elements of a care plan should continue to apply for a child who has been remanded into local authority accommodation. In particular the local authority should arrange for a health assessment to be carried out (Care Planning Regulations 5 (b)(i); and 7 and Schedule 1) and should make provision to address the child's assessed education, training and employment needs. The effective discharge of these responsibilities may involve negotiation with the child concerned, even though they may be disaffected and not necessarily cooperative.
- 3.3.4** Apart from the disapplication of the "plan for permanence" noted above all other duties in the Care Planning Regulations will apply without modification to children remanded to local authority accommodation. They must be allocated an Independent Reviewing Officer to review the care plan at the required intervals. The initial review of the care plan will need to take into account the considerations set out in Schedule 7 of the Care Planning

Regulations.

### **Consultation Questions**

**Q2: Do you agree with the proposal that the care plan for a child remanded into local authority accommodation should be produced within five working days of remand?**

**Q3: Do you agree that where children are remanded to local authority accommodation and are only looked after by virtue of their remand, the designated local authority should not be required to prepare a "plan for permanence"?**

**Q4: Do you agree that the care plan for children who are remanded to local authority accommodation and are only looked after by virtue of their remand should include all the other elements of a care plan as provided for in Part 2 of the Care Planning Regulations? If not – please explain which elements you consider should be omitted, with the reasons for your view.**

**Q5: Do you agree that the review of a care plan for a child remanded to local authority accommodation should be managed in exactly the same way as any looked after child? (See section on review)**

## **3.4 Children remanded to youth detention accommodation**

**3.4.1** As with any other child who becomes looked after, where a child is treated as looked after as a result of being remanded to YDA, the designated local authority will need to appoint an officer with understanding of both the care planning framework and youth justice processes to visit the child for the purposes of assessing their needs.

## **3.5 Children already looked after remanded to YDA**

**3.5.1** Where a child is already looked after and is then remanded to YDA, as with any other significant change, their social worker should visit within one week (Care Planning Regulations, regulation 28(2)(a)). These visits could be co-ordinated with arrangements for the initial remand planning meeting.

**3.5.2** The youth detention establishment should facilitate the visit and allow the child to be seen in privacy (out of hearing of an officer), unless the



child refuses. Representatives of the local authority will be afforded the status of professional visitor rather than the more limited access to the child that applies to social visitor. Subsequent visits must take place at intervals of not more than six weeks. In practice more frequent visiting may be necessary depending on the vulnerability and needs of the individual child. As with other looked after children, the local authority should arrange for visits to keep in touch with the child if they (or their parent(s)) request this; or if a request is made by another professional – e.g. by staff from the allocated YDA establishment.

**3.5.3** Where any child is remanded in YDA we are proposing that the following provisions of the Care Planning Regulations will not apply:

- regulations 5(c) and 9 (placement plans) – see paragraph 3.6.2
- regulation 7 (health care) - we are consulting on how local authority duties to make arrangements for the health care of looked after children should apply when they are treated as looked after when remanded in YDA – see Q9.
- regulations 10 (avoidance of disruption in education), 11 (placement out of area) and 14 (termination of placement) – these will not apply as the local authority does not make or terminate the placement for children remanded to YDA
- Part 4 (provision for different types of placement).

## **3.6 Children remanded to YDA not previously looked after**

**3.6.1** But, in addition, where a child is detained in YDA and is **only** looked after by virtue of that remand, we propose to disapply the duties on the local authority to prepare a full care plan including a plan for permanence (draft regulation 47B(4)(a)).

**3.6.2** We are proposing that, instead of a being required to complete both a care plan and a placement plan, the responsible authority will need to carry out an initial assessment of the child's needs and prepare a "**detention placement plan**" (draft regulation 47C(2)) which reflects the circumstances of his remand. We propose that this plan, which must be prepared within 10 working days of the remand will be designed to set out how the YDA will meet the child's needs. The plan will only have to include certain elements of a usual placement plan, and must be agreed with and signed by the senior officer of the YDA – i.e. Governors of Youth Offending Institutions; Directors of Secure

Training Centres; or Registered Managers of Secure Children’s Homes. This may need to draw on the remand plan/ “placement information form” prepared by an officer of the Youth Offending Team (YOT) and the establishment’s own documentation. The detention placement plan should include information about how the secure establishment proposes to respond to the child’s needs on a day to day basis – e.g. about how the establishment will provide for the child’s education and training needs; for their health needs; and for any specific cultural needs.

**3.6.3** Where a child is remanded in YDA the role of the local authority responsible for the child’s care will be to satisfy itself that day to day arrangements for the child are of sufficient quality to be able to offer an appropriate response to the range of the child’s individual needs. Partnership and collaboration between the local authority and officers in the YDA will be essential.

**3.6.4** The table below lists the elements that we are proposing should be included in a detention placement plan. Some of this information may already be included in the YOT service’s documentation (remand plan/”placement information form”) though this will have a different function to the detention placement plan.

**Detention Placement Plan**

	<b><u>Needs Dimension</u></b>	<b><u>Considerations for the designated authority</u></b>
<b>1</b>	<b>Health</b>	Are the health professionals and establishment staff aware of, and able to meet, the child’s health needs?
<b>2</b>	<b>Education/Training</b>	Are the secure establishment’s education staff aware of, and able to meet, the child’s educational needs, including any special needs or abilities?
<b>3</b>	<b>Emotional and behavioural development</b>	Is there a risk of self-harm?  What is the child’s emotional state?  What are the arrangements for the establishment to respond appropriately to the child’s emotional and developmental needs – talking into account any learning difficulties or disabilities?

<b>4</b>	<b>Family and social relationships</b>	Are the child's parents able to fulfil their parental responsibilities to the child whilst in custody? Is action needed by the LA to facilitate family contact?
<b>5</b>	<b>Self-care skills</b>	Does the child need money, clothes, books or other practical support?
<b>6</b>	<b>Identity</b>	Are the child's ethnic, cultural, linguistic and religious needs being met appropriately by the establishment?
<b>7</b>	<b>Social Presentation</b>	How well does the child understand their circumstances?  What are their wishes and feelings?  What steps are needed to prepare the child for the remand ceasing, perhaps because they are sentenced to custody? [Record which services are responsible]

**3.6.5** Where local authorities are not satisfied that the services being provided by the YDA are of sufficient quality to respond appropriately to the needs of a looked after child, then they should make Governors, Directors and Registered Managers of YDA fully aware of such concerns. These senior managers are accountable for the day to day welfare of children placed in their establishments and will be responsible for taking action to respond to any concerns. The Youth Justice Board (YJB), who are responsible for commissioning places in YDA, should also be notified via the YJB Placement Service.

**3.6.6** For children treated as looked after as they are remanded in YDA, it will be important that the local authority's assessment and the resulting detention placement care plan is focused on two key questions:

(a) How will the child be safeguarded and their welfare promoted whilst they are detained on remand; and

(b) Will the child have somewhere to live with appropriate support when the remand ceases and they are no longer detained?

## **Consultation Questions**

**Q6: Do you agree that where a child is remanded in YDA and is only looked after as a result of that remand, that rather than prepare a care plan, the LA should be required to prepare a detention placement plan and that this should be signed by the senior officer of the YDA establishment?**

**Q7: Do you agree that the timescale already established in regulations of 10 working days (Care Planning Regulations, regulation 2) is practical and realistic to enable a detention placement plan to be produced?**

**Q8: Do you agree that where a child has been remanded in YDA, the role of the local authority should be to liaise with the secure establishment to establish that the day to day arrangements for the child's care are providing an appropriate response to their individual needs to safeguard them and promote their welfare?**

**Q9: Do you consider that, rather than what we are proposing, the responsible authority, as far as practicable, should have responsibility for the delivery of specific services to looked after children in YDA (e.g. health assessment and education services)?**

**Q10: Do you consider that local authorities require more information about the legal requirements and processes that will need to be followed in situations where there are concerns about the quality of services provided to individual looked after children by YDA?**

## **4 Review**

**4.1** Along with arranging for the child to be visited, the designated authority will need to appoint an Independent Reviewing Officer (IRO), to keep the child's care plan (where applicable) or detention placement plan under review. Reviews will always need to consider the child's support needs when they cease to be looked after as a result of the remand ending.

**4.2** Where children are remanded in YDA the secure establishment should enable the child to speak with their IRO in privacy, unless the child refuses, and arrange a suitable venue for the review to take

place.

- 4.3** Where children are remanded in YDA, we propose that IROs should be responsible for coordinating meetings to review the detention placement plan, so that these are aligned with remand planning and other meetings intended to monitor the progress of the child's case through the youth justice system. This should avoid the child having to participate in a plethora of meetings with different functions. All agencies should hold the needs of the young person paramount to scheduling and decisions.
- 4.4** The IRO's role in these circumstances will be to ensure that there is a clear demarcation between meeting to review the detention placement plan and other meeting functions. The review of the plan for any child who is looked after, which will include children remanded to YDA who are treated as looked after, must be a child-centred process. Whilst there will be limitations in view of the secure environment, the IRO should consult the child about how they want their meeting to be managed [*IRO Handbook* 3.29-3.37] The statutory review must focus on whether there are appropriate arrangements in place for responding to the child's needs whilst they are detained. In particular, the child's detention placement plan should take into account the safeguarding and welfare considerations listed under paragraph 4.5.
- 4.5** The considerations that are likely to be most relevant will be:
- whether there is a detention placement plan in place describing how the authority will support the child whilst they remain looked after as a result of being remanded
  - the quality of contact with family and with the local authority official
  - whether plans for the child have taken their wishes and feelings into account
  - arrangements are in place to respond to the child's health and education and training needs
  - the secure establishment takes into account any specific identity and cultural needs of the child
  - arrangements for contact between the child and their family are appropriate and in place
  - whether the child will continue to need support from children's services when the remand ceases and they will no longer be

looked after.

- 4.6** The process of compiling and reviewing plans for remanded looked after children may uncover concerns about where the child will be living and the support that they will be provided with in the community. Should this be the case, consideration may have to be given to whether the grounds are met for the child to remain looked after once they are no longer remanded.

### ***Consultation Questions***

***Q11: Do you agree that the local authority's detention placement plan should be reviewed by an Independent Reviewing Officer (IRO) at the same frequency as care plans for children in other settings?***

***Q12: Are the issues listed under paragraph 4.5 the right ones to be considered in relation to how the child is supported whilst remanded in YDA?***

***Q13: Do you agree that IROs should be the professionals who take the lead for coordinating meetings to review the range of plans in place for a child on remand in YDA?***

***Q14: Is the information in the current IRO Handbook sufficient or would IROs require further guidance on the implications of conducting reviews in secure settings?***

***Q15: Do staff in youth justice services, including staff in YDA, require more information and guidance about the crucial role of the IRO in care planning and review processes?***

***Q16: If you consider that an alternative approach to review would be more appropriate please outline what this should be.***

## **5 Planning for when the remand ceases**

- 5.1** The assessment necessary to develop the care plan for a child remanded to local authority accommodation or the detention placement plan should indicate whether the child might require support from children's services, when the remand ceases and they are no longer looked after. Some children aged 16+ who become

looked after as a result of remand will be entitled to support as care leavers. This entitlement will result if they have been looked after for a continuous period of thirteen weeks whilst remanded; or if their period as a looked after child on remand means that they would have been looked after for thirteen weeks or more since the age of fourteen.

- 5.2** If the remand ceases with the child being given a community sentence, they will be supervised by the relevant Youth Offending Team (YOT). The plan should indicate whether the child's needs are such that YOT supervision would be enhanced by continuing support from children's services. Where the child is a care leaver, the leaving care service of the responsible authority must remain a presence in the young person's life during the period of supervision by youth justice services, with the Personal Adviser and supervising YOT officer keeping each other informed of significant events.
- 5.3** Support may be needed, for example, to assist the child to settle into accommodation, to become established in education or training or to re-establish family relationships to enable the child to build a stable home base.
- 5.4** We are proposing that before the remand of a child ceases, where they will not be looked after and are not likely to be "eligible children" post remand, the designated local authority will have essentially the same responsibilities as those set out in regulation 39 of the Care Planning Regulations (draft regulation 47G), so that their care plan or detention placement plan must include details of any advice, assistance and support the designated authority intends to provide to the child when the remand ceases and they are, therefore, no longer looked after.

### ***Consultation Questions***

***Q17: Do you agree that the duty in the new regulation 47G provides for the local authority to give adequate consideration to the support the child could require when their remand ceases and they are no longer looked after?***

***Q18: Or should the duty towards children who become looked after as a result of the remand framework in LASPOA be strengthened, so that the designated authority must assess the child's needs when he ceases to be looked after, in the same way that authorities should assess the needs of looked after children***

***who are “eligible children” for care leaving purposes (see regulation 42 of the Care Planning Regulations)?***

## **6 How To Respond**

- 6.1** Consultation responses can be completed by downloading a response form which should be completed and sent by email to: [CarePlanning.CHANGES@education.gsi.gov.uk](mailto:CarePlanning.CHANGES@education.gsi.gov.uk) or by post to: Placement Team, Department for Education, Level 1, Sanctuary Buildings, Great Smith Street, London SW1P 3BT.

## **7 Additional Copies**

- 7.1** Additional copies are available electronically and can be downloaded from the Department for Education e-consultation website at: <http://www.education.gov.uk/consultations>

## **8 Plans for making results public**

- 8.1** The results of the consultation and the Department's response will be published on the Department for Education e-consultation website by the end of March 2013.



## Appendix 1

Outline of matters to be included in protocols between local authority children's services (including leaving care services) and Youth Offending Teams (YOTS)

- 1.1** *This outline is not intended to be comprehensive but sets out those matters that will be particularly important so that children's services and YOTs can work in partnership to support and assist children who become looked after as a result of being remanded.*

Arrangements for joint working that recognise the distinctive contribution of each service to safeguarding and promoting the welfare of the child concerned. These will include detail about:

- information sharing;
- notification by the YOT when a child, not already allocated to a social worker in children's services, is remanded to local authority accommodation;
- the process for making arrangements to visit children in custody.

- 1.2** Arrangements for joint training so that staff in YOTs understand care planning requirements for looked after children and staff in services for looked after children and care leavers have a working understanding of the framework for youth justice.
- 1.3** Arrangements for participating in remand or sentence planning and statutory review meetings.
- 1.4** Processes for timely, effective, dispute resolution in circumstances where the staff in children's services and YOTs are unable to reach agreement about how individual children might be best supported.

## Appendix 2

Table 1: Summary of modified care planning requirements for remanded children

### 1.1

Child's Legal Status	Remand to local authority accommodation (LAA)	Remanded to YDA
<p>Already looked after and then remanded</p>	<p><i>It is unlikely that a child who is already looked after would also be remanded to LAA.</i></p> <p>Care Plan is maintained</p> <p>But a placement plan would need to be prepared/revised within 5 working days of the remand in order to take into account the circumstances that led to the child being remanded.</p> <p>Review chaired by IRO at 20 working days</p>	<p>Care Plan is maintained</p> <p>LA must agree a Detention Placement Plan with the YDA, agreed and signed off by the Governor/Director/Registered Manager</p> <p>Review chaired by IRO at 20 working days</p>
<p>Not looked after</p>	<p>The responsible LA must draw up a care plan (but CPR 5(a) is disapplied and the responsible authority will not need to prepare a "plan for permanence"</p>	<p>The child is "treated as looked after" as a result of LASPOA but they are being accommodated by the YDA not the local authority. Therefore –</p> <p>Instead of a care plan the authority must draw up a Detention Placement Plan with the YDA, agreed and signed off by the Governor/Director/Registered Manager</p>

	<p>A placement plan must be prepared and agreed with the accommodation provider.</p> <p>Review chaired by IRO at 20 working days</p>	<p>Review chaired by IRO at 20 working days</p>
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## Appendix 3

### Legal Aid, Sentencing and Punishment of Offenders Act: Remands to youth detention accommodation

- 1.1 There are stringent conditions that have to be fulfilled before a court can consider remanding a child to youth detention accommodation.
- 1.2 Under section 98 of the Act, a child must meet:
  - the age condition, i.e. that they are aged at least 12 (but under 18 years of age);
  - the offence condition, i.e. the offence(s) to which the remand proceedings relate is a violent offence, sexual offence or one that, if committed by an adult, is punishable with a term of imprisonment of 14 years or more;
  - the necessity condition i.e. that the court is of the opinion that after considering all the options for remanding the child, including remand in local authority (non-secure) accommodation, only remanding the child in youth detention accommodation would be adequate for the protection of the public from death or serious personal injury occasioned by further offences committed by that child or to prevent the commission by the child of imprisonable offences; and
  - the legal representation condition i.e. the child must be legally represented or not represented for specified reasons that are set out in section 98 (6) (a) (b) or (c).
- 1.3 Section 99 of LASPOA sets out a second set of conditions that the court might instead apply in order to determine whether a child should be remanded to youth detention accommodation. These focus on the child's history of behaviour whilst on remand.
- 1.4 Under section 99 a child must meet:
  - the age condition, i.e. that they are aged at least 12 (but under 18 years of age);
  - the necessity condition, i.e. that the court is of the opinion that after considering all the options for remanding the child, including remand in local authority (non-secure) accommodation, only remanding the child in youth detention accommodation would be adequate for the protection of the public from death or serious personal injury occasioned by further offences committed by that child or to prevent the commission by the child of imprisonable offences; and
  - the legal representation condition, i.e. the child must be legally represented or not represented for specified reasons that are set

- out in section 98 (6) (a) (b) or (c)
- the sentencing condition i.e. that it appears to the court that there is a real prospect that the child will be sentenced to a custodial sentence for the offence(s) to which the remand proceedings relate.

**1.5** Under section 99 the child must also meet one of the two “history conditions” set out below.

The first “history condition” under which a child may be remanded is if:

- the child has a recent history of absconding while subject to local authority accommodation or youth detention accommodation, and
- the offence(s) to which the remand proceedings relate is alleged to be, or has been found to have been, committed whilst the child was remanded to local authority accommodation or youth detention accommodation.

Alternatively the second “history condition” is the offence(s) to which the remand proceedings relate, together with any other imprisonable offences of which the child has been convicted in any proceedings, amount - or would, if the child were convicted of that offence or those offences, amount - to a recent history of committing imprisonable offences while on bail or remanded to local authority accommodation or youth detention accommodation.

**1.6** Sections 98 and 99 of LASPOA, therefore, incorporate a detailed set of threshold criteria that need to be fulfilled before it is possible to remand a child aged 12-17 in youth detention accommodation. Further information can be found here:

<http://www.justice.gov.uk/legislation/bills-and-acts/circulars>