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# Practice Guidance:

## Custody of Children and Young People Convicted on Indictment Under Section 205(2) or Section 208 of the Criminal Procedure (Scotland) Act 1995

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Riaghaltas na h-Alba  
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<b><u>Contents</u></b>	<b>Page No</b>
<b>INTRODUCTION</b>	<b>1</b>
<b>LEGAL FRAMEWORK</b>	<b>1</b>
<b>SCOTTISH GOVERNMENT POLICY</b>	<b>2</b>
<b>ARREST, CHARGE AND INTERIM DETENTION ARRANGEMENTS</b>	<b>3</b>
First Court Appearance Remand – onus on local authority to identify a place of safety	
<b>PREPARATION FOR SENTENCING UNDER SECTION 205(2) OR SECTION 208 OF THE CRIMINAL PROCEDURE (SCOTLAND) ACT 1995</b>	<b>4</b>
Transportation to secure unit immediately following sentence	
<b>DETENTION ARRANGEMENTS: SECTION 208</b>	<b>5</b>
Initial Planning Child’s Plan while in Custody Placement Review Meeting Review Meetings Sentence Management – Mobility	
<b>DETENTION ARRANGEMENTS: SECTION 205(2)</b>	<b>8</b>
Life Licence Children Subject to Indeterminate Sentences under Section 208	
<b>CHANGE OF PLACEMENT</b>	<b>9</b>
Transfer to Young Offenders Institution (YOI)	
<b>RELEASE ARRANGEMENTS</b>	<b>10</b>
Documentation to be provided to the Parole Board for Scotland Supervision requirements Revocation of Licence Possibility of Return to Custody on the Order of a Court	
<b>ANNEX A - RESPONSIBILITY FOR CHILDREN SENTENCED AND REMANDED UNDER THE CRIMINAL PROCEDURE (SCOTLAND) ACT 1995</b>	<b>13</b>
<b>ANNEX B - GLOSSARY OF TERMS</b>	<b>15</b>

## INTRODUCTION

1. Scottish Ministers have a statutory responsibility for placing and managing the sentences of children under the age of 16, or those between 16 and 18 who are subject to a Compulsory Supervision Order, and who have been convicted on indictment (i.e. under solemn procedure, not summary) by the courts and sentenced to detention. Scottish Ministers also place and manage all children under 18 who are convicted of murder.

2. This document:

- describes the legal framework;
- sets out Scottish Government policy;
- sets out the normal practice of the Scottish Government Youth Justice Team; and
- gives guidance to social work departments, managers of secure units and where relevant to Governors of Young Offenders Institutions (YOI).

3. This guidance supersedes Scottish Executive Justice Department Circular 01/2005. It updates the procedures to be followed in respect of children who appear before a court and where there is a sentence imposed, or likely to be imposed, under section 205(2) or section 208 of the Criminal Procedure (Scotland) Act 1995. This guidance does not relate to children detained under section 44 (detention of children under summary proceedings) or section 51 (remand and committal of children) where responsibility for the placement lies with local authorities.

4. The terms “child” and “children” are used throughout for ease of reference although it is recognised that those sentenced for longer periods may cease to be children before their sentence ends or may be over 16 if convicted under section 205(2).

5. This document should be read alongside the guidance produced by the Centre for Youth and Criminal Justice (CYCJ) to support local areas in implementing the Whole System Approach. [A Guide to Youth Justice in Scotland: policy, practice and legislation](#) can be found on the CYCJ website.

6. Annex A outlines where responsibilities lie in relation to placement, payment and transport arrangements.

## LEGAL FRAMEWORK

7. Section 208 of the Criminal Procedure (Scotland) 1995 Act provides - when children are convicted on indictment and where the court considers that no other method of dealing with them is appropriate - that the court may sentence them to detention, for a period which it must specify in the sentence, in such place and under such conditions as the Scottish Ministers may direct. For the purposes of section 208, “child” has the same meaning as in the Children’s Hearings (Scotland) Act 2011 and includes children under 16 or those aged 16 and 17 who are subject to a Compulsory Supervision Order.

8. Section 205(2) of the Criminal Procedure (Scotland) 1995 Act provides that persons under the age of 18 convicted of murder shall be detained, without limit of time, in such place and under such conditions as the Scottish Ministers may direct.

9. Part I of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (as amended) contains the statutory provisions governing the release on licence, recall and supervision of offenders.

## **SCOTTISH GOVERNMENT POLICY**

10. In exercising Scottish Ministers' discretion as to the placement of those sentenced under sections 205(2) and 208 of the 1995 Act, where practicable and appropriate, children will normally be placed in secure accommodation as near to their home as possible. To help identify the most suitable placement, Scottish Ministers invite the co-operation of partners in identifying children who may be facing criminal charges that could result in their disposal under sections 205(2) or 208. The following details should be provided at the earliest opportunity and should include:

- the child's name,
- gender,
- date of birth,
- address,
- offence,
- if under a compulsory supervision order,
- any known court dates, and
- social work contact details.

11. The Children and Young Person's (CYP) Placement Manager acts on behalf of Scottish Ministers in the application of these arrangements. Any queries should be directed to:

Mary Amos  
CYP Placement Manager  
Care, Protection & Justice Division  
Area 2-A (South)  
Victoria Quay  
Edinburgh  
EH6 6QQ

Tel: 0131 244 0996  
Email: [mary.amos@gov.scot](mailto:mary.amos@gov.scot)  
Out of Hours contact: 07554 332310

## ARREST, CHARGE AND INTERIM DETENTION ARRANGEMENTS

### First Court Appearance

12. A child who is arrested and charged with murder or any other offence to be prosecuted on indictment<sup>1</sup>, either as an individual or as co-accused, must be brought before a sheriff or judge on the first lawful day. The decision on whether or not to grant bail must be made before the end of the day after the child is brought before the sheriff (not counting Saturdays, Sundays or court holidays).

13. If bail is refused, the sheriff or judge will remand the child on a “due course of law” (DCL) Warrant, which is competent for 110 days (sheriff court case) and 140 days (high court case) if all the procedural time limits regarding service of the indictment and preliminary hearings are met.

14. If the child is to be remanded, the processes outlined immediately below should be followed. If the child is not remanded, but the case is being dealt with under solemn proceedings, it is still good practice for social work to inform the CYP Placement Manager as early as possible to alert them of cases where custody may occur.

### Remand – Onus on Local Authority to Identify a Place of Safety

15. The relevant provisions are section 51 of the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”) and the Secure Accommodation (Scotland) Regulations 2013. Under section 51, where a court remands a child who is not released on bail, it normally commits the child to the local authority which it considers appropriate to be detained either in secure accommodation or in a suitable place of safety chosen by the authority. If a child is age 16 or 17 and subject to a compulsory supervision the court also **has the power** to commit the child to a YOI. If the child is age 16 or 17 and not subject to compulsory supervision then the court **must** commit him to a YOI.

16. If the court commits the child to the local authority to be detained in a place of safety, it is the duty of that local authority under the 1995 Act to arrange for the detention of the child in a place of safety of its choosing (which may be secure accommodation) for the period of remand or until liberation in due course of law. They also have responsibility for any associated travel arrangements. If the responsible local authority is different from the child’s home authority, the latter should be informed of both the placement details and travel arrangements.

17. Social work should include details of the placement in the Criminal Justice Social Work Report so the court is aware that a place has been made available. Social work will also have to provide details of the placement to the escort when booking transport.

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<sup>1</sup> Examples of offences that might be brought on indictment are set out in Lord Advocate’s Guidelines - [http://www.crownoffice.gov.uk/images/Documents/Prosecution\\_Policy\\_Guidance/Lord\\_Advocates\\_Guidelines/Lord%20Advocates%20Guidelines%20offences%20committed%20by%20children.pdf](http://www.crownoffice.gov.uk/images/Documents/Prosecution_Policy_Guidance/Lord_Advocates_Guidelines/Lord%20Advocates%20Guidelines%20offences%20committed%20by%20children.pdf)

18. The child may not be placed in secure accommodation under the “place of safety” arrangements **unless** the chief social work officer and the person in charge of the secure unit are satisfied this is necessary because the child:

- has previously absconded and is likely to abscond again and, if the child were to abscond, it is likely that the child’s physical, mental or moral welfare would be at risk;
- is likely to engage in self-harming conduct; or
- is likely to cause injury to another person<sup>2</sup>.

19. In these circumstances the chief social work officer must also be satisfied that it is in the child’s best interests that he or she is placed and kept in secure accommodation and that the placement is appropriate to the child’s needs having regard to the establishment’s statement of functions and objectives.

20. When a young person is remanded, it would be beneficial for both the local authority and secure care providers to ensure that the CYP Placement Manager is made aware of the case as this would assist with any future placement plans in the event that a custodial sentence is given.

21. With regard to those under the age of 18 who are remanded in custody in a YOI on a charge of murder, Governors are asked to notify details of the person to the CYP Placement Manager. Scottish Ministers have responsibility for these young people and will issue an order placing them in YOI (or elsewhere) to ensure they go out on a licence when released.

## **PREPARATION FOR SENTENCING UNDER SECTION 205(2) OR SECTION 208 OF THE CRIMINAL PROCEDURE (SCOTLAND) ACT 1995**

22. The CYP Placement Manager will seek agreement with social work and the Head of secure Unit on an initial placement, on a contingency basis, and in advance of sentence being passed. **This is particularly important where the conviction is for murder** when the sentence may be imposed immediately upon conviction. Advance planning is therefore important in order to avoid the situation where insufficient notice results in the appropriate secure accommodation not being identified prior to sentencing.

23. Where contact has not already been made, the home authority social work department should notify the CYP Placement Manager whenever a child in their area is convicted of an offence on indictment to discuss placement options. In addition to those details listed in paragraph 10, social work should provide the CYP Placement Manager with:

- a copy of the Criminal Justice Social Work report,
- the child’s plan, and
- any other relevant reports.

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<sup>2</sup> Secure Accommodation (Scotland) Regulations 2013 (S.S.I. 2013/205), regulation 12.

24. This is still necessary where the plan is for the child to remain in the establishment where they have previously been remanded. This is because the child can only be detained at a place directed by the Scottish Ministers and responsibility for costs of the placement will transfer from the local authority to the Scottish Government upon sentence.

25. The CYP Placement Manager will contact the relevant court to ensure the clerk is aware of Scottish Ministers' responsibility to the young person. For children sentenced under sections 205(2) or 208 of the 1995 Act, the standard form of Warrant is:

The Court SENTENCED, DECERNED and ADJUDGES, the Panel **to be detained in such place and on such conditions as the Scottish Ministers may direct** for a period of [*day's/month's/year's*]; **under the provisions of the Criminal Procedure (Scotland) Act 1995, Section [205(2)/208]**. In respect of which order, Warrant is hereby granted for the detention of in pursuance of the foregoing order until liberated in due course of law.

26. When a child is ordered to be detained under sections 205(2) or 208, the Sheriff Clerk or Depute Clerk of Justiciary in the High Court should forward to the CYP Placement Manager copies of the extract Warrant. It will then be returned along with the placement order and transport request.

27. The Warrant will not be specific in regards to which secure unit the child is to be placed as this can change over the duration of the sentence depending on their needs/behaviour/circumstances/turning 18 years old. The court clerk will receive a copy of the placement order prepared by the CYP Placement Manager to the Warrant for escort purposes. The holding secure unit will retain the original Warrant.

#### Transportation to secure unit immediately following sentence

28. The CYP Placement Manager will arrange for the child to be transported to the relevant secure unit (and for any transportation requirements while the child remains in the secure unit e.g. further appearances in court, visits to doctor/dentist). It is strongly recommended that the child should be accompanied to the secure unit by somebody they have an existing relationship with.

### **DETENTION ARRANGEMENTS: SECTION 208**

#### Initial Planning

29. Once the sentence has been passed, and the child is detained in the place directed by the Scottish Ministers, the next stage is a thorough assessment of the child by secure care staff, in consultation with other professionals. This will cover:

- proposals for the child's management at the placement,
- a review of the existing Child's Plan,
- preparation of a throughcare plan for the child (to be incorporated into the Child's Plan), and
- if necessary, a reassessment of the appropriateness of the placement.

30. The Head of the Secure Unit in which the child is placed should take responsibility for co-ordinating this assessment, liaising with the CYP Placement Manager and the child's lead professional/allocated social worker.

31. The weight to be attached to each aspect of the assessment will vary with the length of the sentence. For a child sentenced to 12 months or less, the throughcare plan is likely to be the main concern. For a child sentenced to be detained for several years or without limit of time, the child's wellbeing and proposals for the child's management at the placement will be the key issues.

#### Child's Plan while in Custody

32. Once the placement is confirmed by Scottish Ministers, and the Individual Placement Agreement (IPA) has been completed, the unit should prepare proposals for managing the sentence. This should take account of all relevant factors, including nature of offence, home background and the child's wellbeing needs.

33. The identified child's plan should follow Getting it right for every child (GIRFEC) principles and [SHANARRI](#) indicators, including an assessment of risk. This should include measures for, education, recreation, to tackle offending, behaviour maintenance of family links and ultimately planning the child's gradual reintegration to the community.

34. For a child sentenced to be detained for several years the plan should also include proposals to prepare for the child's transfer to a YOI.

#### Placement Review Meeting

35. The CYP Placement Manager, in consultation with the unit where the child is detained, will convene this meeting, usually within 4 weeks after the date of the sentence.

36. The main purpose of the placement review meeting is to consider the appropriateness of the placement. The CYP Placement Manager will also explain the implications of a section 208 sentence and in particular the statutory provisions governing release.

37. The following written reports should be forwarded to the CYP Placement Manager in advance of the meeting:

- the sentence programme proposals prepared by the establishment's managers; and
- a report from the home social worker on the proposed throughcare plan for the child (the specificity will depend on the likely length of time in custody).

38. In order to inform the placement review meeting, the CYP Placement Manager **may** commission additional reports.



39. The CYP Placement Manager will set the date for the review and invite the authors of any reports to attend. The management of the establishment where the child has been placed will invite the child and his or her parents/guardians to the meeting (unless their presence is judged to be against the child's best interests). The CYP Placement Manager will attend but will seek advice on professional issues from the Office of the Chief Social Work Adviser as appropriate. Staff at the secure unit would normally lead the meeting, but the child's social worker should take a prominent role. Where release is likely in the relatively near future the main focus of the meeting will be preparation for release.

40. Following the meeting, the CYP Placement Manager will confirm the continuation of the placement. In the event that it is decided that another placement would be in the child's best interests, the host unit must send copies of all reports to the receiving unit.

### Review Meetings

41. Review meetings normally take place quarterly.

42. The CYP Placement manager will set dates for reviews and the management of the secure unit where the child is located will convene the meetings. The purpose being to review progress and to plan ahead. Such meetings are important landmarks for children in detention, since they provide encouragement and a focus for objective setting and monitoring. When a child is moved to a YOI, the Scottish Prison Service (SPS) will take over responsibility for arranging reviews.

43. Where the period in custody is very short, it may be sufficient to hold one review meeting prior to release to ensure that the throughcare arrangements are in place.

44. For sentences of 12 months or more, resulting a period of at least 6 months in custody, review meetings should be convened every 3 months or more frequently if the circumstances require it.

45. The CYP Placement Manager must attend all review meetings. The child's social worker must also attend, as well as professional consultants (as appropriate). The child should be supported by a key worker at the unit. Parents/guardians should also be invited unless this is not in the child's best interests.

46. Progress reports on the child, commissioned by the secure unit, should be sought from all with immediate responsibility for the child's care. Copies of the reports should be sent to the CYP Placement Manager in advance of the meeting. A representative from SPS should be invited where there is a likelihood of a transfer to a YOI in the near future, on account of the child's age.

47. The child's lead Social Worker must maintain regular contact with the child including visits, telephone calls and correspondence, to assist reviews and the implementation of the sentence programme.

## Sentence Management - Mobility

48. Mobility may be considered when a child has reached the final third of a custodial sentence. This is a valuable tool which allows an individual to begin the reintegration process back into the community by being tested on a gradual and planned basis. Mobility is discussed at review meetings and is subject to a current risk assessment being carried out. Approval depends on factors such as level of engagement and behaviour displayed throughout the sentence.

49. In cases where a child is detained without limit of time [or for life], [or under an Order for Lifelong Restriction] they would not normally be considered for mobility within the punishment part of their sentence.

50. In the initial stages of a section 208 sentence, the mobility programme will usually commence with activities within the establishment grounds. This will normally progress to supervised outings outwith the establishment. Thereafter, and dependent on satisfactory progress, home or local leave becomes an important part of the programme; a progressively developing pattern of day leave, overnight leave and weekend leave would be quite usual. The programme will be tailored to the specific needs and circumstances of the child and will outline support systems and include contingency measures, should any problems arise.

51. Where activities outside the establishment or activities which may attract media attention are proposed, specific approval by Scottish Ministers is required. Proposals for such activities should be discussed at review meetings.

52. All mobility plans must be agreed by the CYP Placement Manager who must provide written consent.

53. The secure unit's manager will notify the local police when a child is first granted unescorted leave. The police will also be advised that Scottish Ministers have approved the leave. This, importantly, will ensure that the police are aware that the child has not absconded.

### **DETENTION ARRANGEMENTS: SECTION 205(2)**

54. As with adults convicted of murder, the court when imposing a sentence of without limit of time, must set a "punishment part". The "punishment part" is the part of the sentence of detention without limit of time which the sentencing judge considers appropriate to satisfy the requirement for retribution and deterrence (ignoring the part, if any, which may be necessary for the protection of the public).

55. The practical arrangements in the case of a child sentenced to detention under section 205(2), are essentially the same as those for children detained under section 208. The emphasis, however, is different because of the nature of the sentence, the likelihood that release will not take place for some years because of the "punishment part" imposed by the court, and the difficulty of assessing risk to the public in the case of those convicted of murder at a young age.

56. The CYP Placement Manager, in consultation with the establishment where the child is detained, will convene a placement meeting, usually within 4 weeks of conviction, and the arrangements described for sentences under Section 208 should apply. The emphasis should be on the sentence programme. A key component in assessing the child's needs is whether there is a requirement for on-going psychiatric or other specialist counselling. At the placement meeting, the CYP Placement Manager will explain the implications of a section 205(2) sentence and in particular the statutory provisions governing release.

### Life Licence

57. The CYP Placement Manager will make it clear to the child and their family at the placement meeting that a child convicted of murder and sentenced to detention without limit of time will not be considered for release on life licence until the punishment part of the sentence has expired. It will be further explained that on expiry of the punishment part, the child's case will be considered by the Parole Board for Scotland (PBS). -If release is directed the child will, if applicable, be released on licence.

58. Review meetings should be convened at least quarterly to review the child's progress, unless there is a change in circumstances.

### Children Subject To Indeterminate Sentences Under Section 208

59. Exceptionally, a court may impose a sentence of detention without limit of time under section 208 of the 1995 Act. Any child sentenced to detention without limit of time under section 208 should be managed in the same way as those sentenced under section 205(2).

## **CHANGE OF PLACEMENT**

60. The CYP Placement Manager is responsible for directing changes of placement, on behalf of Scottish Ministers. The child cannot be moved without Scottish Ministers' direction and any transfer must be authorised in writing.

61. The normal expectation is that the child will remain in the same establishment until their release or their 18<sup>th</sup> birthday. Transfer to another secure unit or YOI (before 18) will only be considered if for example a child's behaviour becomes completely unmanageable within the current placement or where the child is convicted of further serious charges which suggest that they would present an unacceptable risk to the safety of other residents or staff. Conversely, where a child makes suitable progress he or she will be considered for a move from a secure establishment to an appropriately assessed placement.

62. When the question of transfer arises, consideration of the circumstances, including an evaluation of the reasons for a move from the existing establishment, will normally be given at a quarterly review meeting before a decision is taken by the CYP Placement Manager. Where an emergency decision is needed, the CYP Placement Manager must be contacted. Any transfer to another establishment will trigger a review of the Child's Plan.

## Transfer to Young Offenders Institution (YOI)

63. Responsibility for liaising with Scottish Prison Service (SPS) staff to make arrangements for the child's transfer from secure care to YOI will be undertaken by the CYP Placement Manager. The SPS and Scottish Government have a protocol in place to ensure this happens in an appropriate and caring manner. It is recommended SPS staff should attend at least one review meeting prior to the transfer taking place to assist in preparing the child for the move.

## **RELEASE ARRANGEMENTS**

64. Section 7 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (as amended) makes the following provision for the early release of children who are sentenced to be detained for determinate periods under section 208 of the 1995 Act:

- a child sentenced to be detained for a period of less than 4 years must be released on licence automatically at half-sentence, if not released earlier. This also applies to extended sentences where the custodial part is less than 4 years.
- a child sentenced to be detained for a period of 4 years or more must be released on licence after serving two-thirds of the sentence, if not released earlier on the recommendation of the PBS.

65. The PBS is responsible for compiling the release license for all children and young people sentenced under 205(2) or 208.

- for sentences of less than 4 years, the case will not be referred to the PBS prior to 16 weeks before the half-way point of the sentence unless there appear to be reasons why release on licence before that point should be considered.
- for determinate sentence of 4 years or more, the case will normally be referred to the PBS 16 weeks before the half-way point of the sentence unless there appear to be exceptional circumstances for an earlier referral.

66. Where the PBS recommends early release, the child will be released on licence. When there appears to be grounds for early release on compassionate grounds, the case will be referred to the PBS under section 3 of the 1993 Act. Where time allows, e.g. for terminal illness, Scottish Ministers can make the decision without seeking the PBS' views.

67. Where on the expiry of the punishment part of the sentence of detention without limit of time, the PBS directs release on life licence; the child will be released.

## Documentation to be provided to the Parole Board Scotland

68. The CYP Placement Manager supplies the PBS on referral of a case with a dossier of reports and recommendations from:

- the relevant residential establishment or institution (covering behaviour, attitudes and response in custody),
- the child's social worker (covering home background and throughcare plan); and where relevant, and
- a psychiatrist and/or psychologist.

69. The CYP Placement Manager will also liaise with secure staff and social work to obtain the written views of the child.

## Supervision Requirements

70. All children sentenced under section 208 are released on licence and are therefore subject after release to supervision by a social work department. The licence will expire on the same date as the full sentence. Children sentenced under sections 205(2) or 208 to detention without limit of time are released on life licence.

71. Supervision on release is a vital element in the child's rehabilitation. Social workers responsible for the supervision of children released from detention under sections 205(2) or 208 must ensure that the supervision meets the requirements set out in [National Outcomes and Standards for Social Work Services in the Criminal Justice System](#).

72. Social workers responsible for the supervision of such a child must report any breaches of the conditions of his or her licence to the CYP Placement Manager using the attached [form](#).

## Revocation of Licence

73. When a child fails to comply with the conditions of licence, Scottish Ministers may, either on the recommendation of the PBS or at their own request (where it appears to be expedient in the public interest to do so before consultation with the PBS is practicable), revoke the child's licence which will result in recall to custody. In such a case Scottish Ministers will direct the place of detention.

74. The period for which a child may be detained after the licence is revoked will vary depending upon the length of the outstanding part of the sentence. On return to custody the child has the right to make representations to the PBS which may direct re-release on licence.

## Possibility of Return to Custody on the Order of a Court

75. If a child is convicted of an imprisonable offence committed before the end of the period specified in the original sentence then, under section 7(3) of the 1993 Act, the court may order the child to be returned to detention for all or part of the outstanding period of the original sentence between the date on which the offence

was committed and the end of the sentence. This could either be in addition to, or instead of, any sentence for the new offence. Any such period ordered by the court will be treated as if it were a new sentence and will be aggregated with any other term of detention imposed by the court. The CYP Placement Manager will inform the child of the new critical dates.

## RESPONSIBILITY FOR CHILDREN SENTENCED AND REMANDED UNDER THE CRIMINAL PROCEDURE (SCOTLAND) ACT 1995

This Annex outlines where responsibilities lie in terms of placement, payment and transport arrangements.<sup>3</sup>

### Section 44 - Detention of children

Where a child appears before the sheriff in summary proceedings and pleads guilty to, or is found guilty of, an offence to which this section applies, the sheriff may order that they be detained in residential accommodation provided under Part II of the Children (Scotland) Act 1995 by the appropriate local authority for such period not exceeding one year as may be specified in the order in such place (in any part of the United Kingdom) as the local authority may, from time to time, consider appropriate.\*

Responsibility – Local Authority  
 Payment – Local Authority  
 Transport – Local Authority

### Section 51 – Remand and committal of children and young persons

Where a court remands or commits for trial or for sentence a person under 21 years of age who is charged with or convicted of an offence and is not released on bail or ordained to appear, then, except as otherwise expressly provided by this section, the following provisions shall have effect—

- (a) if he is under 16 years of age the court shall commit him to the local authority which it considers appropriate to be detained—
- (i) where the court so requires, in secure accommodation within the meaning of Part II of the Children (Scotland) Act 1995; and
  - (ii) in any other case, in a suitable place of safety chosen by the authority;\*

Responsibility – Local Authority  
 Payment – Local Authority  
 Transport – Local Authority

Remand cases should be notified to the Scottish Government's Children and Young Person's Placement Manager to help identify possible sentenced cases. In these instances, contact 0131 244 0996.

If the person is subsequently sentenced under 205(2) or 208 of the Act responsibilities and costs transfer to the Scottish Government from the date of sentencing.

### Section 205(2) – Punishment for murder

Where a person convicted of murder is under the age of 18 years he shall not be sentenced to imprisonment for life but to be detained without limit of time and shall be liable to be detained in such place, and under such conditions, as the Secretary of State may direct.\*

Responsibility – Scottish Government – at point of sentence. Prior notice required  
 Payment – Scottish Government  
 Transport – Scottish Government (G4S)

<sup>3</sup> for full clauses as defined in the Criminal Procedure (Scotland) Act please see. <http://www.legislation.gov.uk/ukpga/1995/46/contents>

**Section 208 - Detention of children convicted on indictment**

Where a child is convicted on indictment and the court is of the opinion that no other method of dealing with him is appropriate, it may sentence him to be detained for a period which it shall specify in the sentence; and the child shall during that period be liable to be detained in such place and on such conditions as the Secretary of State may direct.

Responsibility – Scottish Government Payment – Scottish Government Transport – Scottish Government (G4S)
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**Section 216 – Restriction on imprisonment for fine default**

Where a child would, if he were an adult, be liable to be imprisoned in default of payment of any fine the court may, if it considers that none of the other methods by which the case may legally be dealt with is suitable, order that the child be detained for such period, not exceeding one month, as may be specified in the order in a place chosen by the local authority in whose area the court is situated.

Responsibility – Local Authority Payment – Local Authority Transport – Local Authority
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## GLOSSARY OF TERMS

**Bail** – an arrangement for the release of an accused person pending trial or sentence subject to conditions.

**Breach** – the failure to fulfil the requirements of either a court order or the conditions of a post release licence.

**Child** - as defined in Section 199 of the Children’s Hearings (Scotland) Act 2011 - A person under the age of 16 or between the age of 16 and 18 and subject to a Compulsory Supervision Order.

**Committal** – the action of sending a person to prison.

**Compulsory Supervision Order** – an order that a Children’s Hearing can make which means that a named local authority is responsible for supporting a child or young person.

**Criminal Justice Social Work (CJSW) Report** – a court can ask for a report to be prepared about a child before sentencing. This report provided information about the individual and their past and current offence(s).

**Detention** - A sentence of imprisonment in a YOI for a person under 21 years of age.

**Determinate Sentence** – a determinate sentence is where the court sets a fixed length for detention (the most common type of sentence).

**Indeterminate Sentence** – a sentenced without a fixed length of time. No release date is set. The child has to serve a minimum amount of time before being considered for release.

**Indictment** - A document setting out the charge(s) of crimes or offences against an accused in more serious cases. It runs in the name of Her Majesty's Advocate (the public prosecutor). A case on indictment is tried by judge sitting with a jury in the High Court (in the most serious cases), or the sheriff court. Cases tried on indictment are known as solemn proceedings.

**Individual Placement Agreement (IPA)** – document setting out arrangements agreed by the Provider and Purchaser for a child who is the subject of a secure accommodation placement under the national Scotland Excel contract for the provision of secure care.

**Mobility** – reintegration back to the community on a gradual and planned basis.

**Non-parole licence** - any person serving a sentence of four years or over (but excluding life) who fails to be released on parole, is automatically released on licence after serving two thirds of the sentence. Failure to comply with the licence can result in recall to prison for the rest of the sentence.

**Parole** - A person serving a sentence of imprisonment or detention of four years or more is eligible to be released after one half of the sentence.

**Punishment Part** - The minimum period a life sentence prisoner has to serve before his case can be considered by a Tribunal of the Parole Board for Scotland for release on life licence.

**Remand** - The disposal of an accused person during further process of law. A person may be remanded on bail or custody.

**Secure Accommodation** – accommodation provided for the purpose of restricting the liberty of children in a residential establishment.

**Solemn proceedings** - Serious criminal offences are prosecuted on indictment before a judge and jury of 15 persons. These proceedings are called "solemn proceedings" as distinct from summary proceedings before a sheriff or justice(s) of the peace sitting without a jury.

**Summary complaint** - Less serious criminal offences are prosecuted on summary complaint before a court of summary jurisdiction, that is a sheriff sitting alone, a stipendiary magistrate or in a Justice of the Peace Court. More serious cases are prosecuted on indictment under solemn proceedings; which is before a jury.

**Throughcare** – to provide services to the child both during and after their sentence.

**Warrant** - A written authority, e.g. from court, authorising certain actions such as an arrest of a person, a search of premises or an eviction of occupiers. Also used to signify a document evidencing a right of some kind, e.g. in a title to heritable property. A Warrant may also be the formal authority by the court to cite a person to appear before it.



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