

## POWERS OF COURTS – YOUNG OFFENDERS

The following two tables have been adapted from the Youth Court Bench Book.

Type of Sentence	Must the offence be imprisonable	Age	Minimum	Maximum	Other Requirements/Comments
Absolute Discharge	No	10-17	-	-	Suitable where the Court does not want to punish the defendant and furthermore feels that the defendant is morally blameless.
Referral Order	No	10-17	3 months	12 months	Available from April 2002. Refers to 1 <sup>st</sup> time offenders pleading guilty. Refer to the Youth Offender Panel where contract drawn up to prevent re-offending.
Conditional Discharge	No	10-17	None	3 years	Appropriate where inexpedient to punish. But may not be made where offender has received a Final Warning within previous 2 years. If defendant commits offence during currency of order then liable to sentence for subsequent AND original offence.
Fine	No	10-13	None	£250	Seriousness of offence(s) is reflected in the amount of the fine imposed. The financial circumstances of the offender/parent must be taken into account.
		14-17	None	£1000	
Reparation Order	No	10-17	None	24 hours over 3 months	To take into account feelings and wishes of victims of crime, confront offenders with consequences of their criminal behaviour and allowing them to make amends
Action Plan Order	No	10-17	3 months	3 months	Short intensive individually tailored response to offending behaviour, addressing causes of offending and offending itself. Can include specified activities.
Attendance Centre Order	Yes	10-13	12 hours ○	12 hours	Centre must be reasonably accessible; ○Can be reduced if 12 hours excessive. ◇Can be increased to 24 hours only if 12 are inadequate.
		14-15	12 hours	24 hours◇	
		16-17	12 hours	36 hours	

Supervision Order	No	10-17	None	3 years	To encourage and assist offenders towards a responsible and law-abiding life, secure rehabilitation, protect public from harm. Prevent further offences. Requirements can be included.
Community Rehabilitation Order	No	16-17	6 months	3 years	Defendant will be supervised by probation officer. Purpose is to rehabilitate, protect the public and prevent further offences.
Community Punishment Order	Yes	16-17	40 hours	240 hours	Defendant will be allocated tasks of benefit to the community.
Community Punishment & Rehabilitation Order: Rehabilitation element:  Punishment element:	Yes	16-17	1 year  40 hours	3 years  100 hours	This Order combines rehabilitation with punishment in the community.  Reserved for the most serious offences within the community.
Drug Treatment and Testing Order ☼	No	16-17	6 months	3 years	Defendant must be dependent on or have propensity to misuse drugs, which requires, and may be susceptible to, treatment. Will be treatment and testing requirements and periodic reviews by court.
Curfew Order	No	10-17	Up to 6 months in length (3 months if under 16) 2-12 hours per day		Court must obtain and consider information about proposed curfew address including the attitude of others affected by the Order. Order must take account of religious beliefs: for example the Jewish Sabbath runs from Friday sunset to Saturday sunset and special consideration may be appropriate, employment, education and requirement of other Community Orders.
Detention and Training Order	Yes	12-17	4 months	24 months NB. 4,6,8,10,12,18,24 months	Where offence(s) are so serious a period of custody is required. A period of detention and training followed by a period of supervision. If offender is under 15 years at the date of conviction must be a "persistent offender".
Custody	Yes	10-17			See below for details.

⊕ Consent required

NB. Power to make Compensation Order as a stand-alone sentence.

**PARENTS**

These orders may be made in addition to the above disposals:

Parenting Order	No	10-15 must 16&17 may	-	12 months ⊕	Prevent offending by providing help, support, encouragement and direction to parents in (a) taking responsibility (b) provide proper care/control to their children. 2 elements: (1) ⊕ guidance/counselling 3 months max, 1 x per week; (2) requirements regarding exercising control over child's behaviour up to 12 months. (c) Age 10-15 reasons if no Order made.
Parental Bind Over	No	10-15 must 16-17 may	-	£1,000 3 years or 18th	An Order binding over the parent(s) where court satisfied in circumstances of the case that to do so would prevent re-offending. Age 10-15 reasons if no Order made.

## EXPLANATORY NOTES

Note that the relevant law has now been consolidated in the Powers of Criminal Courts (Sentencing) Act 2000. Sentencing options below are generally explained in the order in which they appear in the Youth Court Bench Book.

### 1. DISCHARGES

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- These are the same as for adult offenders.

### 2. REFERRAL ORDERS

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- A Referral Order, which orders a first time offender to be referred to a Youth Offender Panel, can be made where a youth court is dealing with a person aged under 18 for an offence and (a) the offence(s) is not one for which the sentence is fixed by law; (b) the court is not proposing to impose a custodial sentence or make a hospital order (within the meaning of the Mental Health Act 1983); and (c) the court is not proposing to discharge him absolutely in respect of the offence (s16).
- The compulsory referral conditions are satisfied in relation to an offence if the offender: (a) pleaded guilty to the offence(s); (b) has never been convicted by or before a court in the UK of any offence other than the offence(s); and (c) has never been bound over in criminal proceedings in the UK to keep the peace or to be of good behaviour (s17(1)).
- The discretionary referral conditions are satisfied in relation to an offence if (a) the offender is being dealt with by the court for more than one offence; (b) although he pleaded guilty to at least one of the offences, he also pleaded not guilty to at least one of them; (c) he has never been convicted by or before a court in the UK of any offence other than these current offences; and (d) he has never been bound over in criminal proceedings in the UK to keep the peace or to be of good behaviour (s17(2)).
- A court making a referral order may make an order requiring parents or guardians to attend the meetings of the youth offender panel (s20). This must be done in the case of offenders under the age of 16 (s20(2)).
- At the first meeting of the youth offender panel, the panel shall seek to reach agreement with the offender on a programme of behaviour the aim (or principal aim) of which is the prevention of re-offending by the offender (s23(1)). This programme will be referred to as a "youth offender contract" and shall be signed by the offender and a member of the panel (s23(6)).
- The terms of the programme may, in particular, include provision for any of the following: (a) the offender to make financial or other reparation to any person who appears to the panel to be a victim of, or otherwise affected by, the offence(s) for which the offender was referred to the panel (with consent of the victim); (b) the offender to attend mediation sessions with any such victim or other person; (c) the offender to carry out unpaid work or service in or for the

community; (d) the offender to be at home at times specified in or determined under the programme; (e) attendance by the offender at a school or other educational establishment or at a place of work; (f) the offender to participate in specified activities (such as those designed to address offending behaviour, those offering education or training or those assisting with the rehabilitation of persons dependent on, or having a propensity to misuse, alcohol or drugs); (g) the offender to present himself to specified persons at times and places specified in or determined under the programme; (h) the offender to stay away from specified places or persons (or both); (i) enabling the offender's compliance with the programme to be supervised and recorded (s23(2)).

- At a final meeting, the panel shall review the offender's compliance with the terms of the contract. If the panel concludes that the offender has satisfactorily completed the contract, the referral order will be discharged. Otherwise, the panel shall refer the offender back to court (s27).

### **3. FINES AND COMPENSATION ORDERS**

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- Children (aged 10-13 years) may be fined up to £250 and young persons (aged 14-17 years) up to £1,000 (s135).
- Fines and compensation imposed on an offender under the age of 18 years shall be paid by the parent or guardian of the offender, unless the court is satisfied (a) that the parent or guardian cannot be found; or (b) that it would be unreasonable to make an order for payment, having regard to the circumstances of the case (s137).
- A parent or guardian may appeal against an order made against them (s137(6) and (7)).

### **4. REPARATION ORDERS**

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- Reparation orders require an offender to make reparation to the victim of the crime or to the community at large (s73). "Make reparation", in relation to an offender, means make reparation for the offence otherwise than by the payment of compensation (s73(3)).
- Reparation must be no more than 24 hours of work, requires the consent of the victim and must not interfere with the offender's religious beliefs, work or education (s74).
- Reparation must be made under the supervision of a responsible officer (ie, a probation officer, social worker, or a member of a youth offending team) and must be made within three months (s74(8)).

### **5. ACTION PLAN ORDERS**

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- An Action Plan Order (a) requires the offender, for a period of three months beginning with the date of the order, to comply with an action plan, ie, a series of requirements with respect to his actions and whereabouts during that period; (b) places the offender for that period under the supervision of a

responsible officer; and (c) requires the offender to comply with any directions given by the responsible officer with a view to the implementation of that plan (s69(1)).

- The making of an action plan order must be desirable in the interests of (a) securing the rehabilitation of the offender; or (b) preventing the commission by him of further offences (s69(3)).
- Requirements included in an action plan order, or directions given by a responsible officer, may require the offender to do all or any of the following things, namely: (a) to participate in activities specified in the requirements or directions at a time or times so specified; (b) to present himself to a person or persons specified in the requirements or directions at a place or places and at a time or times so specified; (c) if the offence is punishable with imprisonment, to attend at an attendance centre specified in the requirements or directions for a number of hours so specified; (d) to stay away from a place or places specified in the requirements or directions; (e) to comply with any arrangements for his education specified in the requirements or directions; (f) to make reparation specified in the requirements or directions to the victim (with consent) or to the community at large; and (g) to attend any hearing fixed by the court (s70(1)).
- Action Plan Orders require the consent of the victim for reparation and must not interfere with the offender's religious beliefs, work or education (s74).

## **6. COMMUNITY SENTENCES**

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Community sentences for offenders aged 16 or over include curfew orders, exclusion orders, community rehabilitation orders (formerly, probation orders), community punishment orders (formerly, community service orders), and community punishment and rehabilitation orders (formerly, combination orders), as for adult offenders. However, there are limitations for curfew and exclusion orders:

### *Curfew Orders and Exclusion Orders*

- Curfew orders and Exclusion Orders may be made on offenders aged 10 to 16 but only for up to three months (ss37(4) and 40A(4)).

In addition, the following orders are also available for children and young persons:

### *Attendance Centre Order*

- These require an offender, aged 10-20 years, to attend at a centre run by the probation service for up to three hours on any one occasion to engage in physical training or other leisure activities (s60-2).
- The minimum number of hours of total attendance is generally 12 and the maximum is 24 hours for those aged under 16 and up to 36 hours for those aged under 21 (s60(4)).

*Supervision Order*

- Where a child or young person (ie, any person aged under 18) is convicted of an offence, the court by or before which he is convicted may (subject to sections 34 to 36 above) make an order placing him under the supervision of (a) a local authority designated by the order; (b) a probation officer; or (c) a member of a youth offending team: s63.
- Supervision orders may last up to three years (s63(7)).

## 7. CUSTODIAL SENTENCES

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*Custody for life*

- Custody for life is the mandatory sentence where a person aged 18 years or over but under 21 is convicted of murder (s93). Such offenders must be detained in a young offender institution, unless the Home Secretary directs otherwise (s95(1)).
- Where a person aged at least 18 but under 21 is convicted of an offence (a) for which the sentence is not fixed by law, but (b) for which a person aged 21 or over would be liable to imprisonment for life, the court shall, if it considers that a sentence for life would be appropriate, sentence him to custody for life (s94).

*Detention at Her Majesty's Pleasure or for a specified period*

- If a young offender aged 10 to 17 years is convicted of murder, detention during Her Majesty's pleasure is the mandatory sentence (s90).
- The court may sentence the offender to be detained for such period, not exceeding the maximum term of imprisonment with which the offence is punishable in the case of a person aged 21 or over, where a person aged under 18 is convicted on indictment of:
  - (a) an offence punishable in the case of a person aged 21 or over with imprisonment for 14 years or more; or
  - (b) indecent assault on a woman; or
  - (c) indecent assault on a man (committed after 30th September 1997) (s91(1)).
- This power also applies where a person aged at least 14 but under 18 is convicted of:
  - (a) causing death by dangerous driving; or
  - (b) causing death by careless driving while under influence of drink or drugs (s91(2)).

*Detention in a Young Offenders' Institution*

- The court may pass a sentence of detention in a young offender institution where:
  - (a) a person aged at least 18 but under 21 is convicted of an offence which is punishable with imprisonment in the case of a person aged 21 or over, and
  - (b) the court is of the opinion (i) that the offence, or the combination of the offence and one or more offences associated with it, was so serious that only such a sentence can be justified for the offence; or (ii) where the offence is a violent or sexual offence, that only such a sentence would be adequate to protect the public from serious harm from him; or
  - (c) the offender fails to express willingness to comply with a community sentence (s96).

- The maximum term of detention in a young offender institution that a court may impose for an offence is the same as the maximum term of imprisonment that it may impose for that offence (s97).

*Detention and Training Order*

- The court may pass a Detention and Training Order where:
  - (a) a child or young person (that is to say, any person aged under 18) is convicted of an offence which is punishable with imprisonment in the case of a person aged 21 or over, and
  - (b) the court is of the opinion (i) that the offence, or the combination of the offence and one or more offences associated with it, was so serious that only such a sentence can be justified for the offence; or (ii) where the offence is a violent or sexual offence, that only such a sentence would be adequate to protect the public from serious harm from him; or
  - (c) the offender fails to express willingness to comply with a community sentence (s100(1)).
- A court shall not make a detention and training order (a) in the case of an offender under the age of 15 at the time of the conviction, unless it is of the opinion that he is a persistent offender; (b) in the case of an offender under the age of 12 at that time, unless it is of the opinion that only a custodial sentence would be adequate to protect the public from further offending by him (s100(2)).
- The offender shall be subject to a period of detention and training followed by a period of supervision (s100(3)). The period of detention and training under a detention and training order shall be one-half of the term of the order (s102(2)). The period of supervision shall begin with the offender's release, whether at the half-way point of the term of the order or otherwise (s103).
- The term of a detention and training order made in respect of an offence (whether by a magistrates' court or otherwise) shall be 4, 6, 8, 10, 12, 18 or 24 months (s101).

## 8. PARENTAL BINDING OVER

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- The court may:
  - (a) with the consent of the offender's parent or guardian, to order the parent or guardian to enter into a recognizance to take proper care of him and exercise proper control over him; and
  - (b) if the parent or guardian refuses consent and the court considers the refusal unreasonable, to order the parent or guardian to pay a fine not exceeding £1,000; and where the court has passed a community sentence on the offender, it may include in the recognizance a provision that the offender's parent or guardian ensure that the offender complies with the requirements of that sentence (s150).
- The recognizance may not exceed £1,000, and the order shall not exceed three years up until the offender reaches the age of 18.