

# Supporting children from custody into the community:

A step by step guide



---

**Howard League**  
for **Penal Reform**

---

## Contents

About this guide .....	2
Best interests and voice of the child .....	4
STEP 1: When do release plans need to be in place? .....	6
Children remanded to custody .....	8
A: The child is on remand but NOT convicted .....	10
B: The child has been convicted and is awaiting sentencing .....	12
Children serving custodial sentences .....	13
C: The child sentenced but has NOT previously been released on this sentence .....	15
D: The child has been recalled to custody following release on supervision or licence ....	17
STEP 2: VIEWS OF THE YOUTH OFENDING TEAM AND MAPPA .....	19
STEP 3: WHAT ARE THE LEGAL DUTIES OWED BY CHILDREN'S SERVICES? .....	21
A: the child can live with family or a suitable adult .....	23
B: the child cannot live with family or a suitable adult .....	24
STEP 4: RESETTLEMENT CHECKLISTS .....	28
Checklist A: for a child who may be released on bail .....	32
Checklist B: for a child who may receive a community sentence .....	34
Checklist C: for a sentenced child being released .....	36
Checklist D: for child who may be acquitted or released following an appeal or the case being discontinued .....	38
Annex 1: Map .....	40
Annex 2: When a child needs a prison lawyer or a community care lawyer .....	41
Annex 3: Consent form .....	43
Annex 4: Correspondence to criminal solicitors .....	44
Annex 5: Care statuses and legal entitlements of children in custody .....	46
Annex 6: Sentence types .....	50
Annex 7: Letter requesting MAPPA minutes and chance to make representations .....	53
Annex 8: Child in need referral .....	54
Annex 9: Email to local authority seeking confirmation of arrangements for release .....	55
Annex 10: Informed consent .....	56
Annex 11: The Howard League's legal service for children in need of support .....	57
Annex 12: References .....	59

## About this guide

### Reintegration matters

Children tell the Howard League that release from custody is often the most difficult part of the criminal justice journey. It is one of the most important steps in breaking the cycle of reoffending and supporting children to achieve their potential (Beyond Youth Custody). The Youth Justice Board has identified resettlement and transitions as a strategic priority and has published guidance on how to make resettlement constructive (Youth Justice Board, 2018).

### Who should use this guide?

This guide has been written to empower staff in custody to support children's positive reintegration into the community. All professionals involved with children in custody from Youth Offending Team workers to lawyers may have a role to play and may find this guide useful.

### What is the purpose of the guide?

This guide aims to help staff in custody to use the law protecting children's rights to ensure that children leave custody at the earliest opportunity with the support they need. A roof over a child's head is not sufficient to reintegrate a child into the community, but an address is essential to enable planning to meet a child's needs for education, leisure, health and other important networks of support.

The guide aims to help supporting adults to:

- know when accommodation and support plans need to be in place;
- take steps to ensure relevant professionals are on notice of earliest possible release dates;
- understand children's legal right to support on release from custody; and
- understand when and how children can be supported to access independent legal advice and representation if there are concerns about reintegration planning.

Each section includes an aim, the context, relevant law/guidance and action required to actively facilitate a child's reintegration into the community.

### About the Howard League and how this guide has been developed

This guide has been designed by the Howard League for Penal Reform's legal service which provides free and confidential information to professionals and direct advice and representation to children.

Children in young offender institutions can call our helpline each week day between 9.30am and 12 noon. The number - **0808 801 0308** - is a global confidential number which is available on all prison PINs. Children in secure children's homes and secure training centres can call the office on 020 7248 7373 in working hours. More information about the Howard League's legal service is available on our website: [howardleague.org/legal-work/](http://howardleague.org/legal-work/) and at [Annex 11](#).

In developing this guide, we have drawn on our legal work, as well as the views of over 100 staff working in secure establishments and almost 100 children across the secure estate over a two-year period.

### **Language**

Throughout the guide the word “child” is used. Many professionals we talked to have told us that children in custody sometimes prefer to be called “young people” given their age and life experiences. However, this guide is about ensuring adults help children get the rights they are legally entitled to as children; it is not designed for children themselves and the use of the word “child” reflects the language of the legislation referred to within the guide.

### **Law**

This guide refers to English law. The law in Wales is slightly different but the same principles apply. The law is correct as of December 2019.

## Best interests and voice of the child

### Aim

The best interests of the child should always be a primary consideration and the voice of the child should be encouraged and listened to in relation to all matters affecting the child. The aim of this section is ensure that professionals in custody who are involved in resettlement planning understand what the child's wishes and feelings are, that the child is able to fully participate in decisions about them and that their best interests are put first.

### Context

Children in custody are children first and foremost. They are, on any view, often vulnerable and have multiple complex needs. Many children in prison do not have a voice.

### Law

All professionals have a legal duty to ensure that in all decisions affecting children, the child's best interests are a primary consideration, and to take the child's wishes and feelings into account.

**The Youth Justice Board's [National Standards \(2019\)](#)** require professionals to "*prioritise the needs of children, recognizing their needs, capacities, rights and potential*" and "*encourage children's participation, engagement and wider social inclusion*" so that "*all work is a meaningful collaboration with children and their carers.*"

**Section 11(2) of the Children Act 2004** requires certain public authorities, including local authorities, prison governors and directors of STCs, to ensure their functions are discharged having regard to the need to safeguard and promote the welfare of children.

**Article 3 of UN Convention on the Rights of the Child** requires that in all actions concerning children, the best interests of the child shall be a primary consideration.

**Article 8 of the European Convention on Human Rights** protects a person's private life, including personal development and to be able to effectively participate in decisions affecting it.

**Article 12 of the UN Convention on the Rights of the Child** requires that a child who is capable of forming his or her own views has the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

In the case of looked after children, **section 20(6) of the Children Act 1989**, requires that before providing accommodation, the local authority shall, so far as is reasonably practicable and consistent with the child's welfare, ascertain the child's wishes and feelings about it and give due consideration (having regard to his age and understanding) to the child's wishes and feelings. These duties also apply to children on a full care order.

## Action

Throughout the resettlement planning process ask yourself:

- Does the child fully understand their rights?
- Have I fully understood what the child is saying or wants?
- Does the child need additional support – for example, speech and language support – to be understood?
- Does the child know they can ask me questions?
- Is there anything else I can do to ensure that the child has a voice in the process?
- Have I put the child's best interests first?
- Have I helped the child to access all the available support to ensure their voice is heard? This may include advocacy services such as Barnardo's, their independent reviewing officer (IRO) if they are looked after, a specialist community care lawyer, and the [Children's Commissioner's Help at Hand team](#).

The map in [Annex 1](#) may be useful when talking to a child about resettlement plans and discussing areas where they would and would not like to live.



## STEP 1: When do release plans need to be in place?

### Aim

A suitable release plan needs to be in place for the earliest possible release date. The aim of this section is to help to identify the earliest possible date on which a child will automatically be released or, where applicable, can make an application to be released.

### Context

Research shows that reducing system contact is the best way to reduce the risk of offending (McAra, 2018). Custody is the most intense form of system contact. Independent reports have warned of the risks of custody for children ranging from harm while detained to the missed developmental opportunities (HMIP, 2019; IICSA, 2019; Gooch, 2016).

### Law

There is a legal duty to ensure that children are detained for the shortest appropriate period.

**Article 5 of the European Convention on Human Rights** protects the right to liberty.

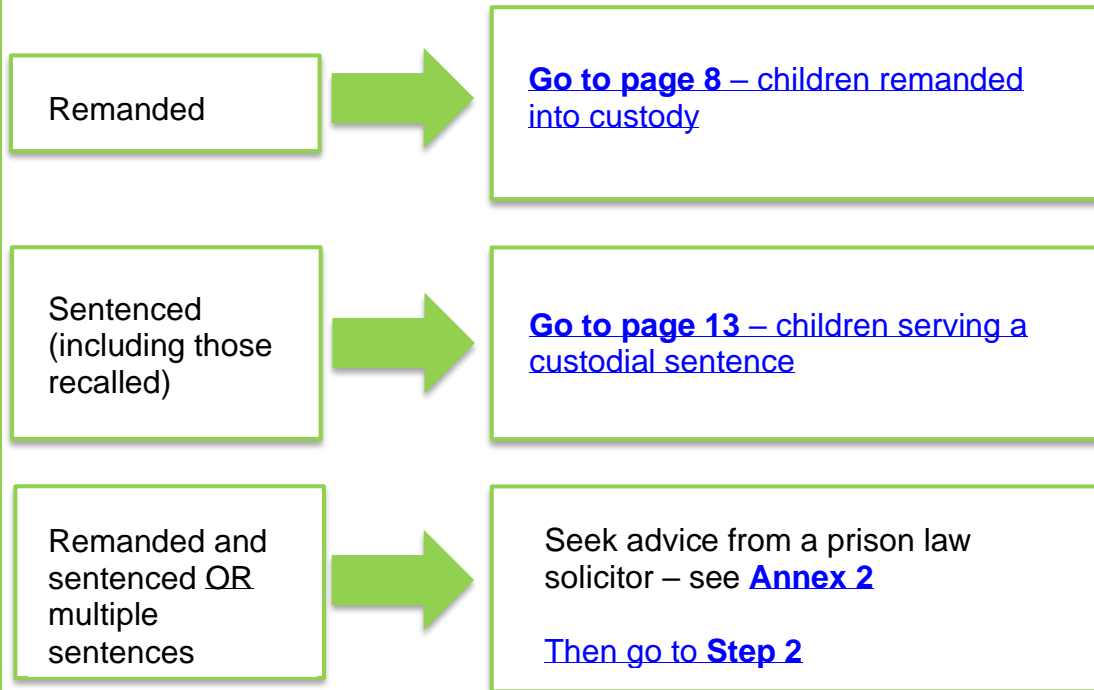
**Article 37 of the UN Convention on the Rights of the Child** requires the detention of a child shall be a last resort and for the shortest possible period.

**Clause 7 of Schedule 2 of the Children Act 1989** requires local authorities to take steps to keep children out of detention.

It is therefore essential to be aware of the earliest possible release date to ensure that a suitable resettlement plan is in place.

## Action

Working out when the earliest possible release date is will depend on the legal basis for the child's detention.





## Children remanded to custody

### Aim

All children remanded to custody should be in the best possible position to seek bail. The aim of this section is to establish circumstances in which a remanded child may be released from custody and when to help the child to seek legal advice.

### Context

The Legal Aid Sentencing and Punishment of Offenders Act (LASPO) 2012 was designed to reduce the likelihood of children being remanded to custody. This has not been as successful as hoped. While real numbers have dropped since 2012, they have not reduced in line with the reduction in the total number of children in prison.

The disproportionate number of children from ethnic minority backgrounds in custody is magnified in the case of children remanded to custody. In 2018 around 40 per cent of all children in custody were from Black and Ethnic Minority backgrounds but between 44 and 48 per cent of children remanded to prison were from these backgrounds compared to 34 per cent from White backgrounds (Ministry of Justice, 2019).

### Law

All children remanded to youth detention accommodation (custody) are “looked after” children. The responsible local authority will be designated by the court that remanded the child in accordance with **s.104 LASPO**.

The responsible local authority must appoint a social worker to complete an assessment of the child’s needs and prepare a **detention placement plan (DPP)**. This plan should describe how the local authority will meet the child’s needs and record the roles and responsibilities of other partner organisations. Some children who are remanded will already be well known to their home local authority, because prior to being remanded they were looked after by children’s services, either voluntarily under s.20 Children Act 1989 or subject to a full care order under s.31 Children Act 1989. [Children Act guidance \(Vol 2\)](#) confirms that a DPP must also be drawn up with regard to children who are already looked after and who are remanded to YDA (DoE, 2015). This will be based on the assessment informing the child’s current care or pathway plan.

The DPP should include details of how the child will be supported when their period on remand comes to an end, including whether the child will need to be accommodated by the home authority or by another local authority on release and whether any other services should be provided by the home authority or by another local authority under the Children Act 1989.

All children on remand are entitled to seek advice from their criminal solicitors about making a bail application. If the court has refused bail, it is the court's duty at every hearing to consider whether the child ought to be granted bail. Where a child has been remanded into custody, they may make a second bail application to the subsequent court and put forward any argument, even those previously argued.

If this second application is refused, the next court need not hear arguments it has previously heard. If there has been a change in circumstances, the child has a right to make further applications. The passage of time itself may be considered a change of circumstance in particular cases.

Where children are remanded into custody, children's services should, in partnership with the child's criminal lawyer and the YOT, make representations to the court to secure bail or a remand to local authority accommodation to fulfill their legal duty to keep children out of secure accommodation.

There may also be cases where the prosecution should be discontinued. This may be particularly relevant where:

- a child is a suspected victim of modern slavery, trafficking or county lines/child criminal or sexual exploitation
- a child is facing prosecution for offences committed in care
- it is not in the interests of justice for the prosecution to continue

In those circumstances the child's criminal solicitor should be encouraged to advise on whether representations can be made to the crown prosecution service not to proceed with the case.

## Action

The earliest possible release date will depend on whether the remanded child is convicted or not.

Not convicted  
(awaiting plea/  
trial)



**Go to page 10 –**  
**A: Children who are on remand**  
**but have NOT been convicted**

Convicted  
(awaiting  
sentencing)



**Go to page 12 –**  
**B: Children who have been**  
**convicted and are awaiting**  
**sentencing**

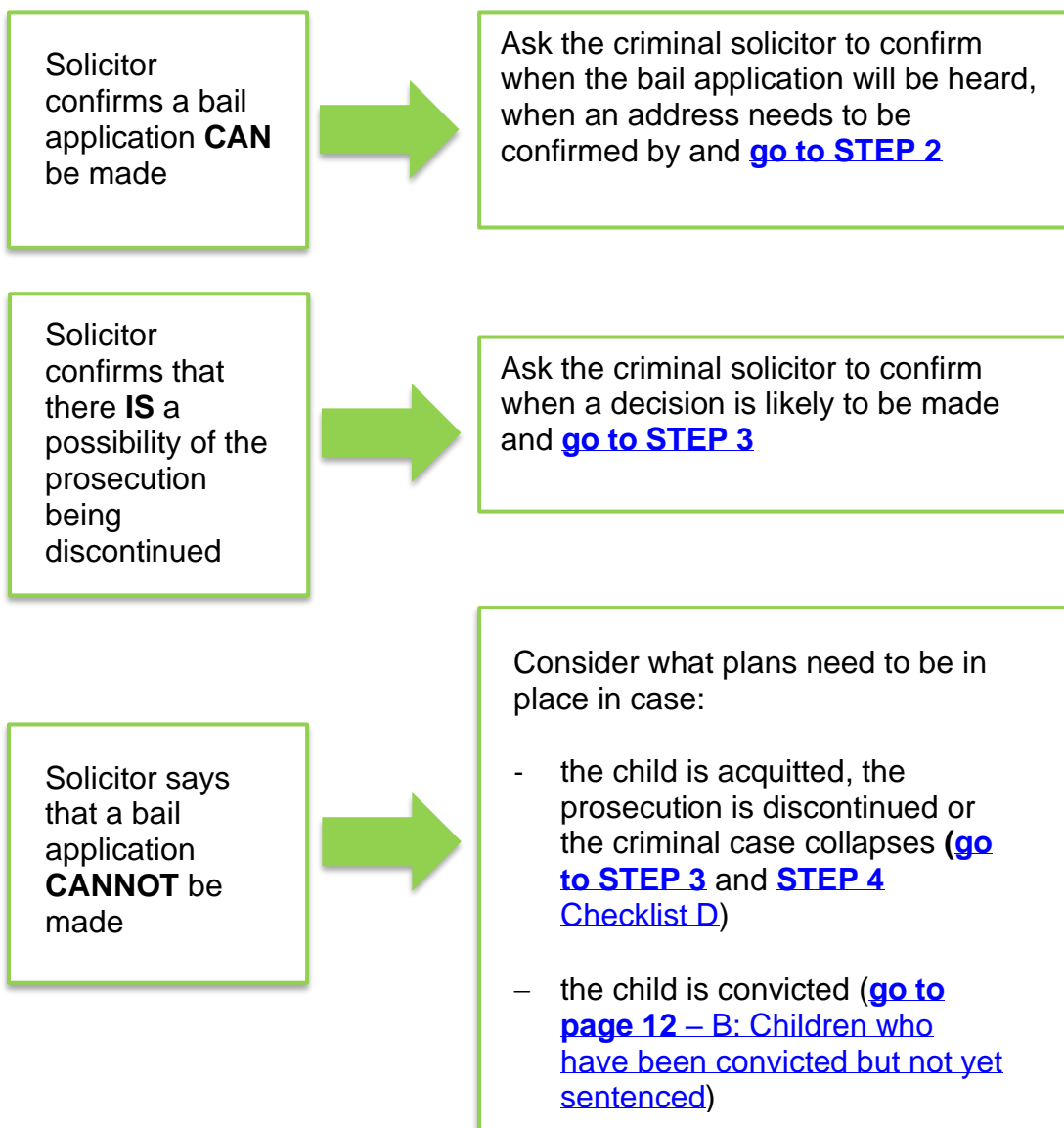
## A: The child is on remand but NOT convicted

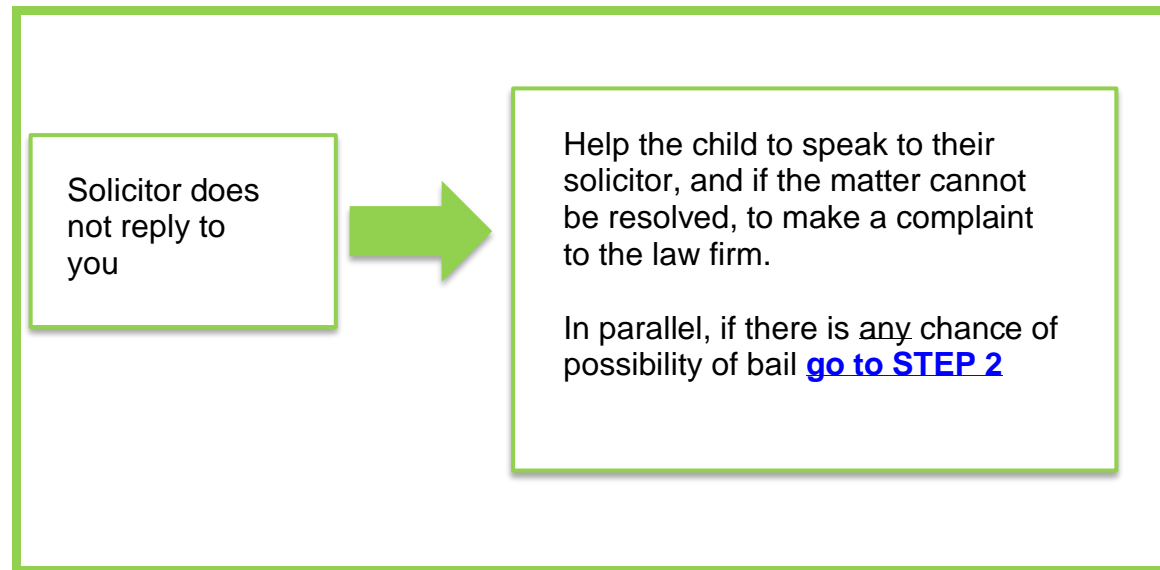
### Action

Get the details of the child's criminal solicitor. If these are not readily available, ask the child, the YOT worker, social worker or another responsible adult.

Ask the child to sign a consent form giving you permission to speak to the criminal solicitor - see [Annex 3](#) for sample consent form.

Contact the child's criminal solicitor to find out what would be needed for a successful bail application or whether there is a possibility that the case could be discontinued - see [Annex 4](#) for sample request to criminal solicitors

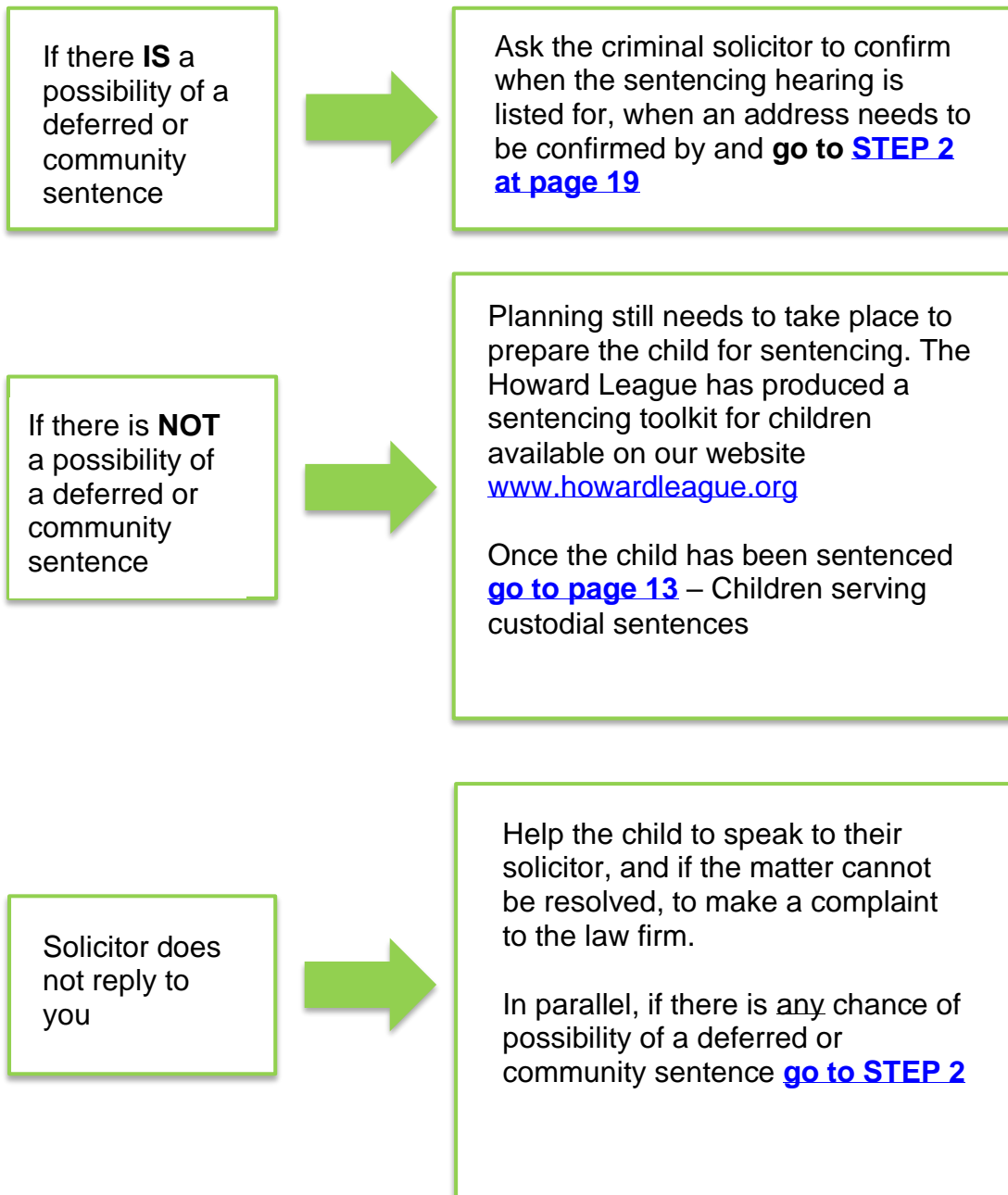




## B: The child has been convicted and is awaiting sentencing

### Action

Ask the criminal solicitor when the sentencing hearing is and if there is the possibility of a deferred or a community sentence if suitable accommodation and support is in place – see [Annex 4](#) for example email to criminal solicitors.



## Children serving custodial sentences

### Aim

Planning for release for children serving custodial sentences should start as soon as the child is sentenced. The aim of this section is to establish the earliest possible release date for a sentenced child.

### Context

The link between reoffending and lack of safe and suitable accommodation and support is well established (YJB, 2018).

Research by the Social Exclusion Unit shows that stable accommodation can result in a reduction of more than a fifth in reoffending rates. Research by the YJB found that 40 per cent of children in custody have previously been homeless or have sought formal housing support.

### Law

**Standard 5 of the Standards for children in the youth justice system** is on 'transition and resettlement'. As a matter of public law this guidance should be followed unless there is good reason to depart from it. It requires YOTs and secure establishments planning for release to provide 'a tailored plan' which should:

- be produced promptly
- be produced with active engagement from the child and their family.
- set out the personal and structural support to be made available to support the child develop a pro-social identity.
- identify the child's strengths and capacities (and those of the wider community around them) and set out how these factors will impact upon the activities and be built into a full desistance plan and
- be the subject of regular and joint review

Specific plans should be in place for the following transitions:

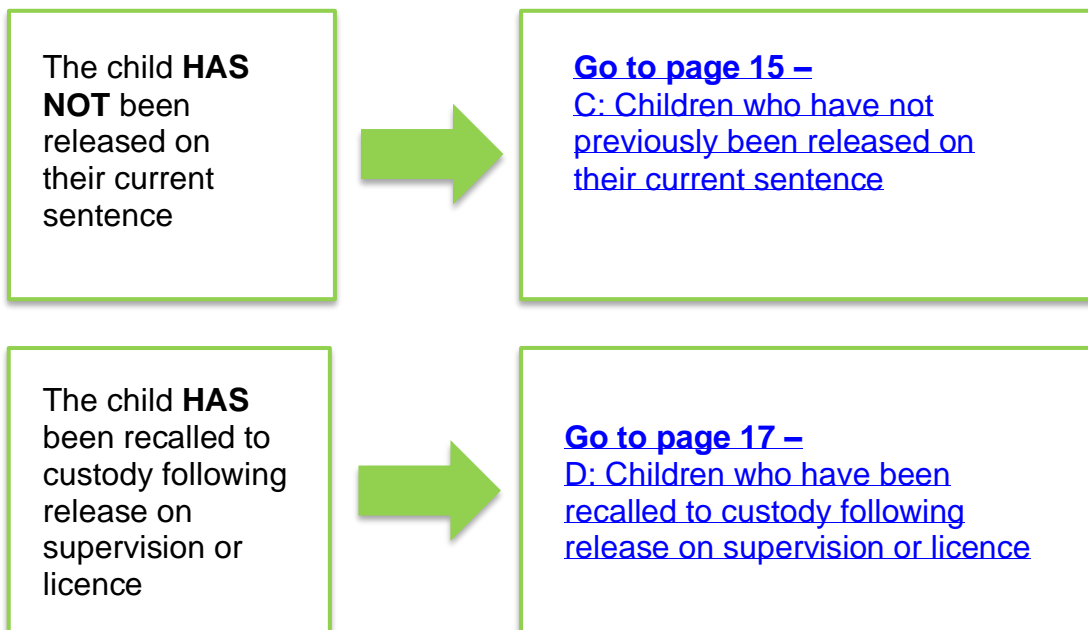
- across local authorities and boroughs
- to a different secure provision
- from a secure establishment for children into adult provision
- to a healthcare provision, such as a secure hospital, or to a secure welfare placement
- from a secure establishment to home
- to adult probation services
- into looked after children provision, including new and different placements
- health including mental health, and to adult health services
- education, training and employment

Many children will be entitled to support from children's services while they are in custody and on release. See [Annex 5](#) for further legal duties owed by children's services to children in custody.

### Action

The first step is to establish what type of sentence the child is serving. Request the sentence calculation sheet from the Youth Custody Service (in a secure children's home or STC) or custody admin in a YOI and see [Annex 6](#) for sentence types.

The earliest possible release date will depend on whether or not the child has previously been released on their current sentence.



**C: The child has been sentenced but has NOT previously been released on this sentence**

**Action**

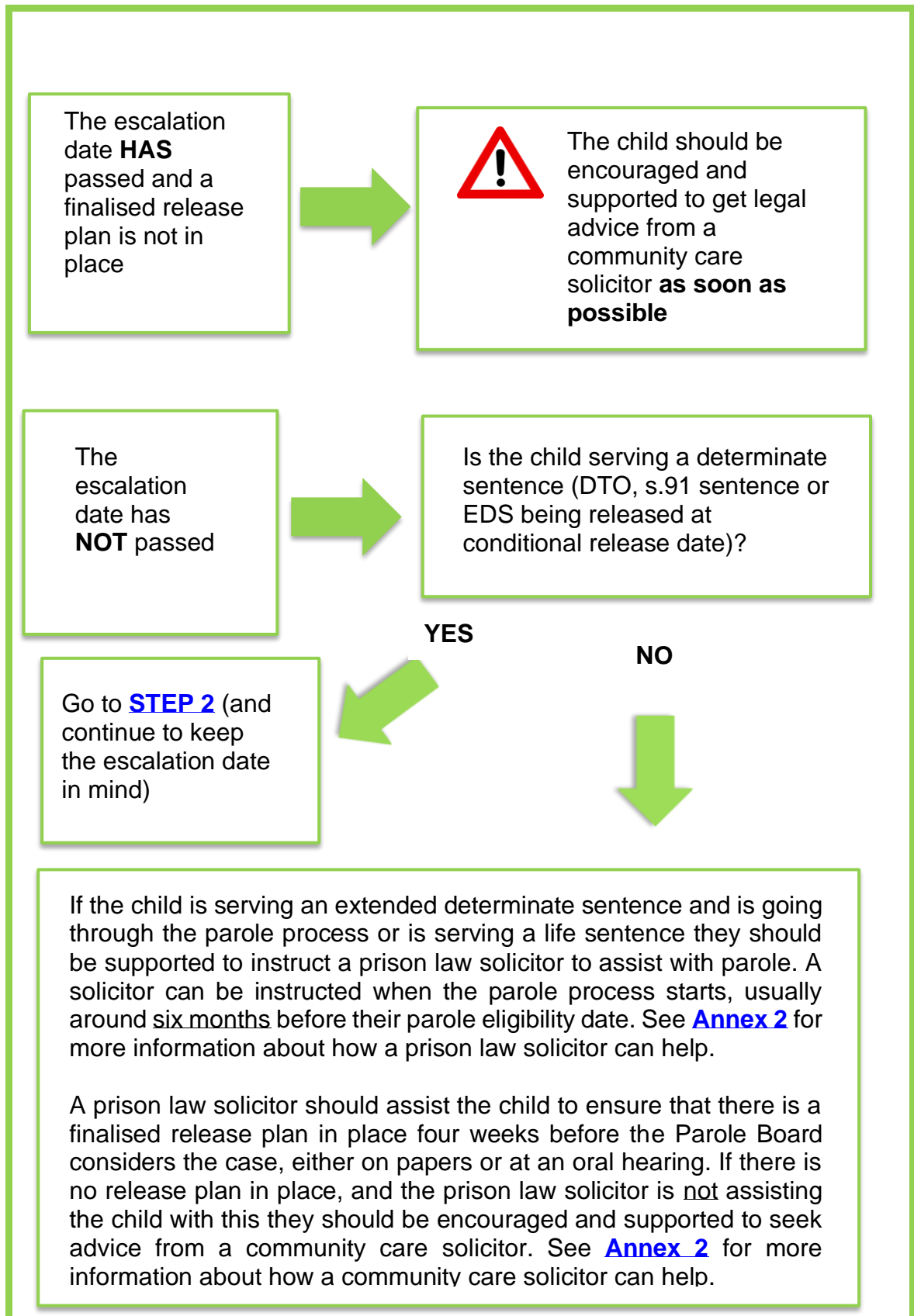
Using the sentence calculation sheet and the table below identify an escalation date for legal advice if there is no resettlement plan in place and then follow the flow charts below.

Sentence	Earliest possible release	Escalation date for legal advice
<b>Detention and training order</b>		
4 – 6 months	Mid-point	Four weeks before earliest release date
8 to 17 months	One month before mid-point	Four weeks before earliest release date
18 to 24 months	Two months before the mid-point	Four weeks before earliest release date
<b>S.91 sentence</b>		
Under 4 years and eligible for release on HDC	Up to 135 days before mid-point (unless excluded from HDC by virtue of offence)	10 weeks before HDC eligibility date
Under 4 year but excluded from HDC or 4 years or over	Mid-point	Four weeks before mid-point
<b>Extended Determinate Sentence</b>		
If applying to the Parole Board for release prior to conditional release date	Parole eligibility date	Four weeks before Parole Board considers the case (on papers or at oral hearing)
If not being released by the Parole Board prior to conditional release date	Conditional release date	Four weeks before automatic release date
<b>Life sentences (Discretionary or Mandatory)</b>	Parole eligibility date	Four weeks before Parole Board considers the case (on papers or at oral hearing)



**If there are any doubts about a child's earliest possible release date support the child to seek legal advice as soon as possible**





## D: The child has been recalled to custody following release on supervision or licence

### Action

Using the table below identify an escalation date for legal advice if there is no resettlement plan in place and then follow the flow charts below.

Sentence child breached/recalled	Earliest possible release	Escalation date for legal advice
Detention and Training Order	There will be a fixed release date following the court's decision at the breach proceedings	Four weeks before earliest release date
S91		
Fixed term recall	Child must be released after 28 days but can be released before then	Child should be supported to get legal advice from a prison lawyer <b>immediately</b> – see <a href="#">Annex 2</a>
Standard recall	When the Secretary of State orders executive release or following review by the Parole Board review	
Extended Determinate Sentence		
Life sentences (Discretionary or Mandatory)	When Parole Board directs release	

Now follow the flow charts on the next page.



## STEP 2: VIEWS OF THE YOUTH OFFENDING TEAM AND MAPPA

### Aim

It is essential to obtain the views of the Youth Offending Team and MAPPA as soon as possible as bail, supervision and licence conditions may limit the options for release planning. The aim of this section is to ensure that early discussions take place about proposed restrictions and the impact of resettlement planning.

### Context

Children leaving prison will often be released under the supervision of criminal justice services and subject to bail, supervision or licence conditions in order to ensure that the public is protected and the criminal justice process will be effective.

The Howard League has frequently come across situations where release plans are jeopardised at the last minute because criminal justice restrictions have not been factored in from the beginning.

Children are entitled to challenge conditions if they are not necessary or disproportionate so these need to be set out as early as possible to enable this to happen.

### Law

- Article 8 of the European Convention on Human Rights means that:
  - All criminal justice conditions including licence, supervision and bail conditions, must be **NECESSARY** and **PROPORTIONATE**. That means conditions should only be imposed if they are really necessary to protect the public **and** nothing less restrictive will do. Conditions should not be so strict that they will set children up to fail.
  - Children should be able to participate in decisions about bail, supervision and licence conditions. This requires decisions to be made in good time. Children should be consulted and supported to challenge them if they do not think they are necessary or proportionate.
- The Youth Offending Team is responsible for creating a bail package, supervision and licence conditions. Accommodation may need to be approved by YOT but is not resourced to fund it – if a child does not have appropriate accommodation and support, social services will have a duty to provide it (see Step 3)
- The courts are responsible for setting final bail conditions

- The Secretary of State is responsible for setting the final licence and supervision conditions based on the recommendation of YOT and this duty is delegated to the establishment or the Youth Custody Service.
- Licence and supervision conditions must be available at the **penultimate meeting prior to release which must be held no later than one month before the proposed release date (Paragraph 6.9 of Section 7 of the YJB's case management guidance, 2014)**
- Children who are managed under Multi-Agency Public Protection Arrangements (MAPPA), must be referred to MAPPA six months before release (**Paragraph 6.8 of Section 7 of the YJB's case management guidance, 2014**)
- Children are entitled to ask to see a summary of MAPPA minutes and make representations to inform MAPPA decision making (paragraphs 13b.22 – 13.b26, MAPPA) - **see example email in [Annex 7](#)**

#### **ACTION:**

Speak to the child's YOT worker about:

- where the child should live and what support is required
- any proposed restrictions such as bail, licence or supervision conditions, including any exclusion zones that might impact on where a child can live and education provision
- whether there is going to be MAPPA oversight, and if so when the next MAPPA meeting is scheduled for
- how the child will be supported to make representations to inform MAPPA decision making

Go to [STEP 3](#)

## STEP 3: WHAT ARE THE LEGAL DUTIES OWED BY CHILDREN'S SERVICES?

### Aim

It is important to establish the child's care status in order to determine what legal duties are owed to the child by children's services. The purpose of this section is to establish the legal duties owed by children's services to children upon their release from custody.

### Context

Many children in custody will be owed a duty of care by children's social services. As Mr Justice Munby (as he then was) said in the Howard League case, children in custody "*are, on any view, vulnerable and needy children*" and "*over half of the children in YOIs have been in care*". Children may be in care, have care histories or be in need either while in custody or on release.

### Law

**Annex 5** sets out in detail the care statuses and legal entitlements of children serving custodial sentences and being released from custody.

The law says that children's services must provide accommodation to any child (under 18) if they have no-one to look after them or have nowhere suitable to live.

Some children may be able to return to live with family or another suitable adult but may require additional support from children's services. If children's services are arranging the placement consideration should be given to the placement being provided under **s.20 Children Act 1989** and the child being a **looked after child**. If children's services are not arranging the placement the child or his parent/guardian may still require financial and practical assistance for this placement to work. This can be provided by children's services to the child as a child in need under **s.17 Children Act 1989**.

Some children may already be owed legal duties by children's services upon release from custody as a result of ongoing or previous periods in care. These children may be **looked after children** (under **s.31 Children Act 1989**) or **relevant children** (under **s.23A and s.23B Children Act 1989**).

Some children are not already owed legal duties but may need accommodation and support to be provided because they do not have somewhere suitable to live. These placements will be provided under **s.20 Children Act 1989** and the child will be a **looked after child**. If the child is

under 16 then a person with parental responsibility must give permission. If the child is 16 or 17 then s/he must consent to being looked after. Any decision not to be looked after must be made on an informed basis. See [Annex 10](#).

A 16 or 17-year-old child leaving custody can decide that they do not wish to be provided with accommodation by children's services under section 20 Children Act 1989. **This should be a rare and exceptional step.** In these circumstances it is very important that children's services are clear that the child's decision is properly informed and has been reached after careful consideration of all the relevant information. If the child is subsequently not accommodated by housing services and remains homeless, housing services must inform children's services who may need to take further action.

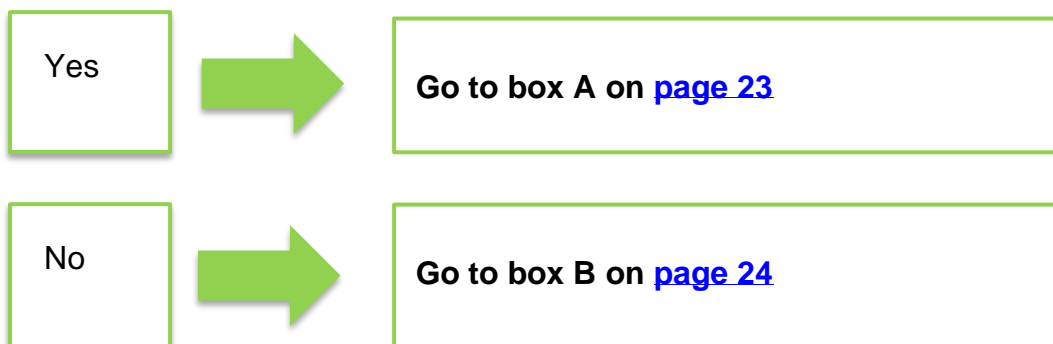
Where a 16 or 17-year-old child in need wishes to refuse accommodation offered under s.20 of the Children Act 1989, children's services must be satisfied that the child:

- has been provided with all relevant information;
- is competent to make such a decision; and
- that they do not need to take additional safeguarding action.

Children should have access to independent advocacy and support to assist them in weighing up the advantages and disadvantages of not being looked after, including the consequences of this when they turn 18. Every 16-17 year old assessed as being a child in need but who does not wish to be accommodated under s.20 should have a child in need plan setting out the services that will be provided to meet their needs.

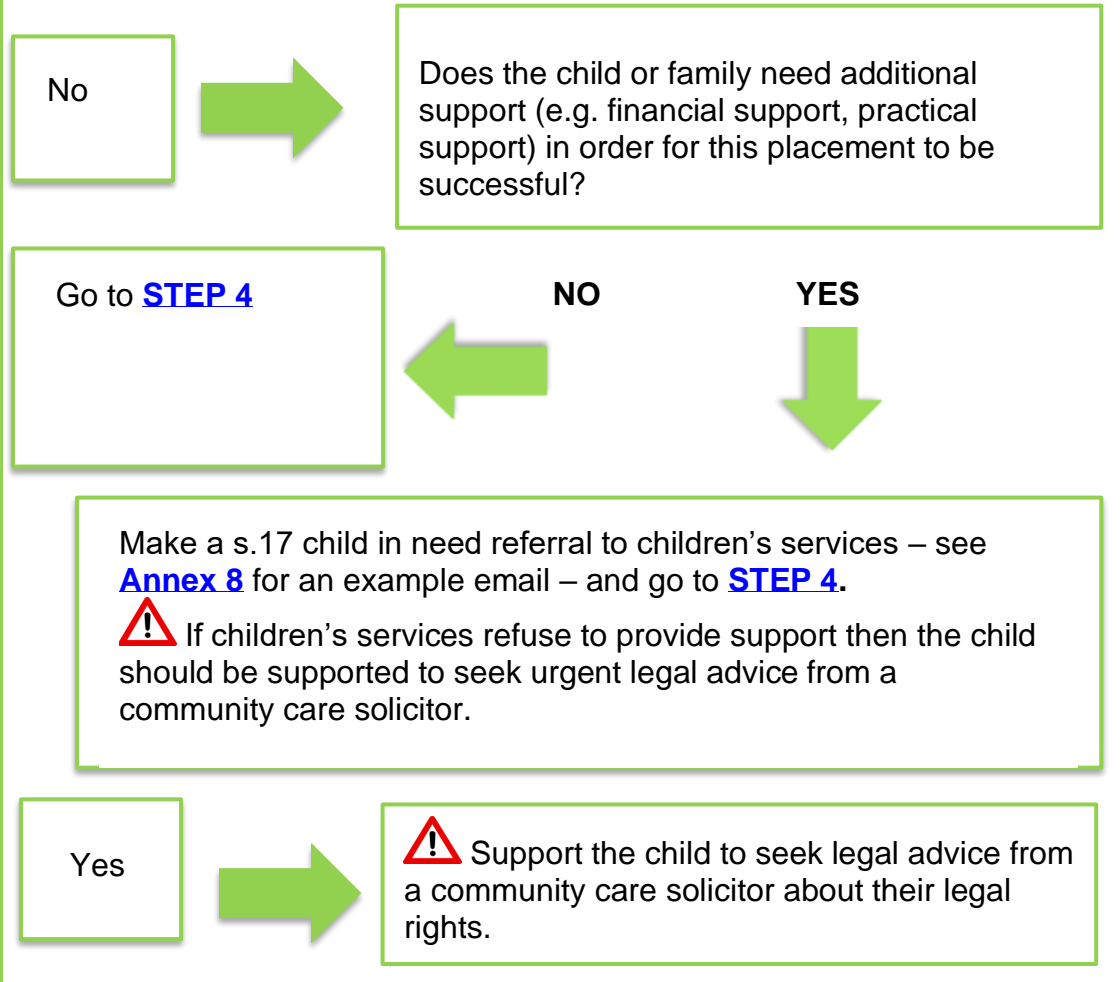
#### **ACTION:**

Can the child live with **family or a suitable adult**, has this been approved by YOT/MAPPA (if applicable) and is this what the child wants?



## A: the child can live with family or a suitable adult

**If the child is going to live with family or a suitable adult has this placement been arranged by children's services?**



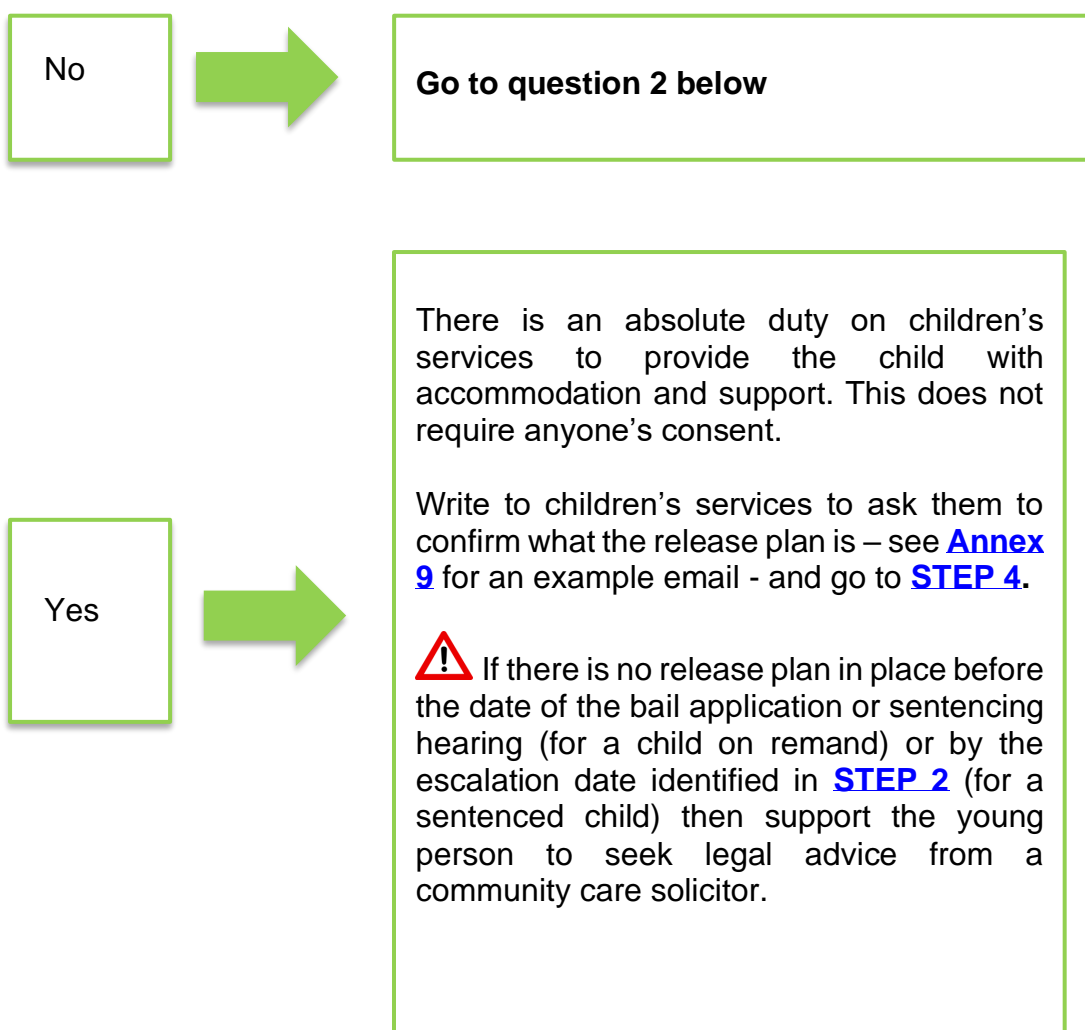


## B: the child cannot live with family or a suitable adult

### Action

If the child cannot live with family or another suitable adult, they will require support from their home local authority. The purpose of the questions that follow is to establish the legal authority for this support.

1. Is the child subject to a full care order? [see [Annex 5](#) for the definition of a full care order]



2. Is the child a relevant child? [see [Annex 5](#) for the definition of a relevant child]

No



Go to question 3 below

Yes



There is an absolute duty on children's services to provide the child with accommodation and support. As this will mean that the child will become looked after ('an eligible child' – see [Annex 5](#) for definition) the child has to consent to this. This consent must be on an informed basis - see [Annex 10](#)

**Does the child consent to being looked after child?**

Write to children's services to ask them to confirm what the release plan is – see [Annex 9](#) for an example email - and go to **STEP 4**.



If there is no release plan in place before the date of the bail application or sentencing hearing (for a child on remand) or by the escalation date identified in [STEP 2](#) (for a sentenced child) then support the child to seek legal advice from a community care solicitor.

YES



NO



Support the child to seek legal advice as soon as possible

### 3. Is the child under 16 or 16/17?

Under  
16



There is an absolute duty on children's services to provide the child with accommodation and support. However, as the child is under 16 someone with parental responsibility must consent to the child becoming a looked after child.

Does someone with parental responsibility consent?


**YES**



**NO**



Write to children's services to ask them to confirm what the release plan is – see [Annex 9](#) for an example email – and go to [STEP 4](#).

 If there is no release plan in place before the date of the bail application or sentencing hearing (for a child on remand) or by the escalation date identified in [STEP 2](#) (for a sentenced child) then support the child to seek legal advice from a community care solicitor. See [Annex 2](#) for how a community care solicitor can help.




Support the child to seek legal advice as soon as possible

16 or  
17



Write to children's services to ask them to confirm what the release plan is – see [Annex 9](#) for an example email – and go to [STEP 4](#).

 If there is no release plan in place before the date of the bail application or sentencing hearing (for a child on remand) or by the escalation date identified in [STEP 2](#) (for a sentenced child) then support the child to seek legal advice from a community care solicitor. See [Annex 2](#) for how a community care solicitor can help.

There is an absolute duty on children's services to provide the child with accommodation and support. As this will mean that the child will become looked after ('an eligible child' – see [Annex 5](#) for definition) the child has to consent to this. This consent must be on an informed basis.

**Does the child consent to being a looked after child?**

YES

NO



Support the child to seek legal advice as soon as possible

## STEP 4: RESETTLEMENT CHECKLISTS

### Aim

Make sure everything that needs to be in place is in place well before release, so the child still has time to seek legal support to deal with any concerns. The aim of this section is to provide a checklist of what should be in place for all children prior to release, whether it's on bail, a community sentence or supervision/licence.

### Context

As release approaches it is not uncommon for children to become extremely anxious and for plans to fall apart or unravel. While planning should begin as soon as a resettlement need is identified, in reality, parts of any resettlement plan are interdependent and there may be practical and financial constraints. This section aims to prepare professionals to manage those challenges.

### Law

The **United Nations Convention on the Rights of the Child (UNCRC)**, which has been signed by all UN member states, bar the United States of America, requires states to treat children in conflict with the law in a way that “promotes reintegration and the child’s assuming a constructive role in society” (**Article 40**).

The **United Nations Rules for the Protection of Juveniles Deprived of their Liberty**, states that “[t]he Competent authorities should provide or ensure services to assist juveniles in re-establishing themselves in society” (**Rule 80**).

The **European Prison Rules** state that “all detention shall be managed so as to facilitate the reintegration into free society of persons who have been deprived of their liberty” (**Rule 6**) and “additional assistance shall be provided to children who are released from prison” (**Rule 35.3**).

The **European Rules for juvenile offenders** subject to sanctions and measures go further: they require children in prison “be guaranteed a variety of meaningful activities and interventions according to an individual overall plan that aims at progression through less restrictive regimes and preparation for release and reintegration into society” (**Rule 50.1**).

**National Standard 5** (YJB, 2019) requires workers to ensure all transitions are prepared promptly and produced with active engagement from the child and their family.

The YJB has issued guidance on resettlement preparation and planning for sentenced young people.

The penultimate meeting prior to release will be the release preparation meeting, and should be held no later than **one month before the proposed release date**. This meeting will focus on arrangements for the child's release and is when licence conditions are set. It should bring together the planning which has taken place over the entirety of the custodial element of the sentence, carrying over any outstanding work to the community element of the sentence, and finalise arrangements for resettlement. If the child is looked-after by the local authority, the allocated social worker must be invited and the review meetings combined.

The meeting will finalise arrangements for:

- employment, training or education – ensuring that there is education provision of at least 25 hours a week for children of school age in place, and college, training or employment arrangements for those older. A specialised careers or education worker could undertake a joint visit with the case manager for this meeting
- accommodation – a suitable placement should be arranged for the child on release, with arrangements made for electronic curfew monitoring equipment if necessary and consideration given to what support the child will need to live successfully at this location. If no definite address has been identified at this stage, the case manager must escalate the issue to the YOT manager, who must raise this with the agencies responsible to attain a speedy resolution, escalating as necessary
- health – services should be in place to meet assessed mental and physical health needs, and any substance misuse requirements
- finances – applications for benefits to which the child is entitled have been made and sent through

This meeting also agrees the conditions of the community element of the order. The meeting should ensure that arrangements are in place, for young people who have reached or will reach their 18th birthday while on license. This is so support and interventions can be transferred to adult mainstream and specialist services as appropriate

The final release review meeting is held no less than **10 working days before release**. If the child is looked-after by the local authority, the allocated social worker should be invited and the review meetings combined and ought to attend the review to comply with the legal duties owed under the Children Act 1989.

Elements which need to be agreed at the pre-release meeting include:

- transport – you should confirm arrangements for the child to return to their home area, and who will be meeting them at the gates on release
- YOT contact – you should confirm arrangements for supervision including on the day of release
- reminding the child of finalised licence conditions

Residential and foster placements for looked after children must be the **most appropriate** way to safeguard and promote the child's welfare (s22(3), Children Act 1989) and must be close to home, with siblings and not disrupt education

Chapter 3 of [Children Act guidance \(vol 2\)](#) states that in every case, before making the placement the local authority must establish that the accommodation is suitable (DoE, 2015). Accommodation under "other arrangements" must be accommodation (§3.119)

- which so far as reasonably practicable, is **suitable for the child** in light of his/her **needs**, including his/her **health** needs;
- in respect of which the responsible authority has **satisfied** itself as to the **character and suitability** of the provider;
- which complies with **health and safety requirements**; and
- which the local authority has, so far as reasonably practicable, taken into account the child's:
  - wishes and feelings; and
  - education, training or employment needs.

## Action

Remanded  
but may be  
released on  
bail

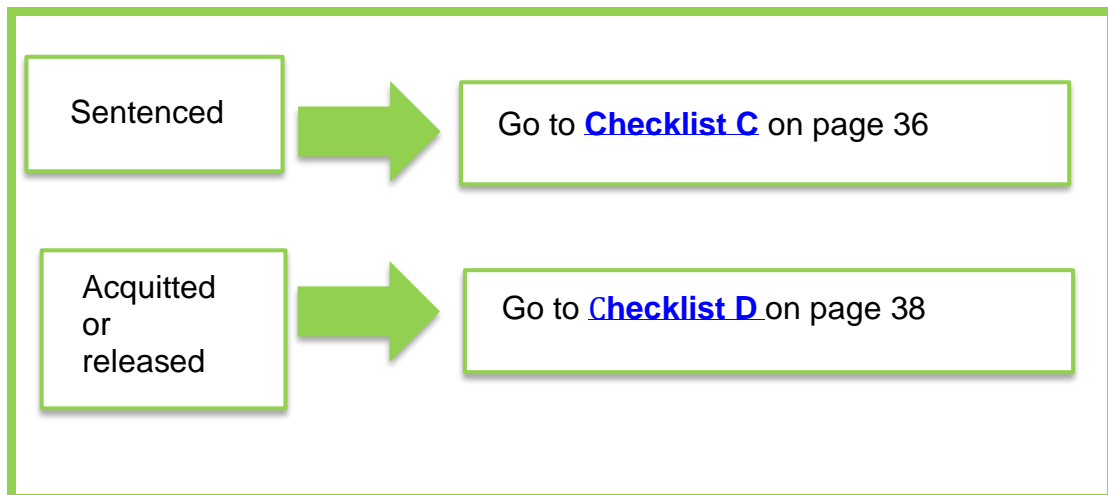


Go to [Checklist A](#) on page 32

Convicted  
but may  
receive a  
community  
sentence



Go to [Checklist B](#) on page 34





## Checklist A: for a child who may be released on bail

Complete the following checklist:

Prior to the bail application being heard has the child been told (if they are released on bail):

- ☐ where they will be living, what support they will be provided with and how they will be transported there
- ☐ what the employment, training or education plan is
- ☐ how their physical and mental health needs will be met, including registration with a doctor, dentist and optician
- ☐ how their financial needs will be met
- ☐ what bail conditions are being proposed to the court

If the child is going to be living with **family or a responsible adult** have they:

- ☐ been told what bail conditions are being proposed to the court and what will happen if they are not complied with
- ☐ confirmed that will be able to provide the child with practical day to day support, including help getting to appointments and complying with bail conditions

If the child is being provided with **accommodation and support by children's services** have they been:

- ☐ told when they can expect to see their social worker or personal advisor and given contact details for children's services, including out of hours
- ☐ given a copy of their current care plan or pathway plan
- ☐ told when their care plan or pathway plan will next be updated
- ☐ told that they can still get advice from a community care solicitor about their legal rights and entitlements when they are released



If this checklist flags up unresolved concerns or the child is not happy with the proposed plan the child should be supported to seek legal advice –

see [Annex 2](#) for more information about how a community care solicitor can help.

## Checklist B: for a child who may receive a community sentence

Complete the following checklist:

Prior to the sentencing hearing has the child been told (if they receive a community sentence):

- ☐ where they will be living, what support they will be provided with and how they will be transported there
- ☐ what the employment, training or education plan is
- ☐ how their physical and mental health needs will be met, including registration with a doctor, dentist and optician
- ☐ how their financial needs will be met
- ☐ what supervision or licence conditions are being proposed to the court; does it include tag and if so, is that necessary and proportionate?
- ☐ when and where their first YOT appointment will be, how they will be transported to it and contact details for YOT, including out of hours details

If the child is going to be living with **family or a responsible adult** have they:

- ☐ been visited by the Youth Offending Team
- ☐ been told what the proposed supervision/licence conditions are and been told what will happen if they are not complied with
- ☐ been told when and where the child's first YOT appointment is and who will be able to help them to get to it
- ☐ confirmed that they will be able to provide the child with practical day to day support, including help getting to appointments

If the child is being provided with **accommodation and support by children's services** have they been:

- ☐ told when they can expect to see their social worker or personal advisor and given contact details for children's services, including out of hours
- ☐ given a copy of their current care plan or pathway plan

- ☐ told when their care plan or pathway plan will next be updated
- ☐ told that they can still get advice from a community care solicitor about their legal rights and entitlements when they are released



If this checklist flags up unresolved concerns or the child is not happy with the proposed plan the child should be supported to seek legal advice – see [Annex 2](#) for more information about how a community care solicitor can help.

## Checklist C: for a sentenced child being released

Complete the following checklist:

At the penultimate meeting prior to release has the child been told:

- ☐ where they will be living and what support they will be provided with and is happy with this plan
- ☐ what the employment, training or education plan is and is happy with this plan
- ☐ how their physical and mental health needs will be met, including registration with a doctor, dentist and optician
- ☐ how their financial needs will be met
- ☐ what supervision/ licence conditions they will be subject to
- ☐ whether electronic monitoring conditions are available if early release

At the pre-release meeting has the child been told:

- ☐ who will collect them on the day of release and what time they will be collected
- ☐ when and where their first YOT appointment is, how they will be transported to it and contact details for YOT, including out of hours details
- ☐ that they can still get advice from a community care solicitor about their legal rights and entitlements when they are released

If the child is going to be living with **family or a responsible adult**, by the time of the pre-release meeting has the person/people that the child will be living with:

- ☐ been visited by the Youth Offending Team
- ☐ been given a copy of the licence/supervision/bail conditions and been told what will happen if they are not complied with
- ☐ been told when and where the child's first YOT appointment is and confirmed they will be able to help them to get to it
- ☐ confirmed that they will be able to provide the child with practical day to day support, including help getting to appointments

- ☐ been given contact details of who to contact for support or if there are any issues

If the child is being provided with **accommodation and support by children's services** has the child been:

- ☐ told when they can expect to see their social worker or personal advisor and given contact details for children's services, including out of hours
- ☐ given a copy of their current care plan or pathway plan
- ☐ told when their care plan or pathway plan will next be updated
- ☐ told that they can still get advice from a community care solicitor about their legal rights and entitlements when they are released



If this checklist flags up unresolved concerns or the child is not happy with the proposed plan the child should be supported to seek legal advice – see [Annex 2](#) for more information about how a community care solicitor can help.

### Checklist D: for child who may be acquitted or released following an appeal or the case being discontinued

Complete the following checklist:

Has the child been told

- ☐ where they will be living, who will be providing the accommodation and what support they will be provided with and is happy with this plan
- ☐ what the employment, training or education plan is and is happy with this plan
- ☐ how their physical and mental health needs will be met, including registration with a doctor, dentist and optician
- ☐ how their financial needs will be met
- ☐ what supervision/ licence conditions they will be subject to
- ☐ whether electronic monitoring conditions are available if early release
- ☐ who will collect them from court
- ☐ that they can still get advice from a community care solicitor about their legal rights and entitlements when they are released

If the child is going to be living with **family or a responsible adult**, has the adult been advised

- ☐ the date and time of the hearing or any applications for the case to be discontinued
- ☐ that the accommodation needs to be available from the date of the hearing or at any time if the case is discontinued
- ☐ been given contact details of who to contact for support or if there are any issues

If the child is being provided with **accommodation and support by children's services** has the child been:

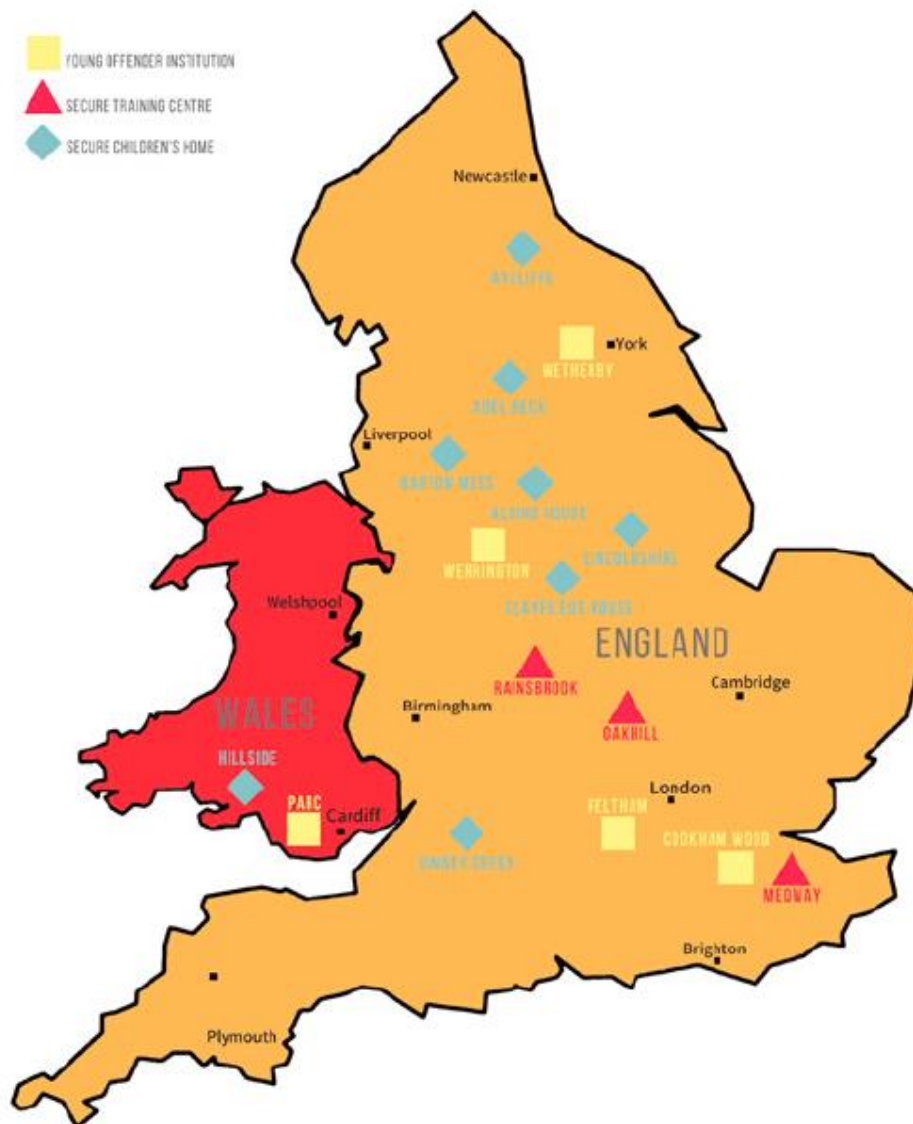
- ☐ told when they can expect to see their social worker or personal advisor and given contact details for children's services, including out of hours
- ☐ given a copy of their current care plan or pathway plan
- ☐ told when their care plan or pathway plan will next be updated
- ☐ told that they can still get advice from a community care solicitor about their legal rights and entitlements when they are released



If this checklist flags up unresolved concerns or the child is not happy with the proposed plan the child should be supported to seek legal advice – see [Annex 2](#) for more information about how a community care solicitor can help.



## Annex 1: Map



## **Annex 2: When a child needs a prison lawyer or a community care lawyer**

### **Prison law**

Prison lawyers can provide advice to a child about their **treatment** in custody. This can include their rights when they are segregated or restrained, access to education or other parts of a lawful regime, contact with family/visits and concerns about discrimination.

Prison lawyers can provide advice to a child who is having issues relating to their **sentence**. This can include advising on sentence calculation, transferring to another establishment, getting onto courses or offending behavior programmes and planning for release, including early release.

Prison lawyers can provide advice to a child who is appearing in front of a prison governor for an **adjudication** and representation to a child who is appearing in front of the independent adjudicator.

Prison lawyers can provide advice and representation to children who have to go through the **parole** process or who have been released and subsequently **recalled** to custody.

### **Community care law**

Community care lawyers can provide advice and assistance to children who are **not getting the support from children's services** that they are legally entitled to. This includes support in custody and when they are released.

### **Specific resettlement issues arising for children in custody**

The rights of children leaving custody and the mechanisms for release are complex and a child may need both prison law and community care advice.

#### **1. Early release and release on Home Detention Curfew:**

In most cases there is a presumption that anyone eligible for early release should get it. Children can be released early if they are serving a detention and training order of eight months or more or a s.91 sentence of less than 4 years and are otherwise eligible. They may need some advice from a prison law solicitor about how the process works, or assistance if the process is not progressing in the way that it should.

A child should not be prevented from or delayed in getting early release or release on Home Detention Curfew because they do not have a suitable release address or support package to go to. If this is the case, then they should be supported to get advice from a community care solicitor.

#### **2. Parole/Recall**

If a child is serving an extended sentence or life sentence, or has been recalled to custody on any type of sentence other than a detention and training order, then they should be supported to get advice from a prison law solicitor.

Release or re-release will be contingent on a suitable risk management plan being in place, including a suitable release address and support package. A

child should not be refused release because they do not have a suitable release address or support package to go to. If this is the case, then they should be supported to get advice from a community care solicitor.

See **Annex 6** for more information about sentence types for children.

### **How to contact a solicitor**

Some law firms or organisations specialise in both prison law and community care law and will be able to advise a child on both issues. Some firms only specialise in one or other area of a law and so a child may need two solicitors to advise them and those solicitors will need to work together.

The Howard League for Penal Reform's legal service provides free and confidential information to professionals and direct advice and representation to children. See [Annex 11](#) for more information.

**Annex 3: Consent form**

**Consent**

I confirm that I authorise [*insert name*] to discuss my situation and share all relevant information, papers, documents, reports, records and files with other professionals of their choosing.

**Name** .....

**DOB** .....

**Signature** .....

**Date** .....

## **Annex 4: Correspondence to criminal solicitors**

### **Email/letter to criminal defence solicitors about bail**

Dear [x]

I am a *[insert role]* at *[insert secure unit/STC/YOI]*. I am currently working with *[insert the name of the child]* who is on remand at *[insert secure unit/STC/YOI]*.

*[Name of the child]* has told me that *[s/he made a bail application but it was refused/ s/he has not yet made a bail application.]* S/he would like to make a *[further]* bail application and has asked me to contact you on *[his/her]* behalf to discuss this.

I would be grateful if you could let me know whether *[name of the child]* is likely to be granted bail if a package of suitable accommodation and support is identified. If so, I would be grateful if you could confirm whether you have had any correspondence with *[YOT/children's services/the child's family]* about identifying a package of suitable accommodation and support for *[insert the name of the child]* and the outcome of those discussions.

I look forward to hearing from you.

### **Email/letter to criminal defence solicitors about diversion or discontinuance of prosecution**

Dear [x]

I am a *[insert role]* at *[insert secure unit/STC/YOI]*. I am currently working with *[insert the name of the child]* who is on remand at *[insert secure unit/STC/YOI]*.

I understand that there are concerns that *[name of the child is]* *[a suspected victim of modern slavery, trafficking or county lines/child criminal or sexual exploitation OR facing prosecution for offences committed in care.]*

It would be helpful if you could confirm whether representations have been made to the Crown Prosecution Service to ask them to discontinue the proceedings as it is not in the public interest for them to proceed. If not, I would be grateful if you could arrange to *[speak to/visit]* *[name of child]* to advise them about this.

I look forward to hearing from you.

## Email/letter to criminal defence solicitors about non-custodial sentence

Dear [x]

I am a *[insert role]* at *[insert secure unit/STC/YOI]*. I am currently working with *[insert the name of the child]* who is on remand at *[insert secure unit/STC/YOI]*.

*[Name of the child]* has told me that s/he is going to be sentenced on *[insert date]* and that *[the Court/YOT]* have indicated that they would be willing to consider *[imposing/recommending]* a non-custodial sentence. *[Name of the child]* is concerned that suitable accommodation has not yet been found and therefore the Court/YOT judge are not going to be able to give meaningful consideration to a non-custodial sentence. S/he has asked me to contact you on *[his/her]* behalf to discuss this.

It would be helpful if you could confirm whether a non-custodial sentence is being considered by the Court/YOT. If so, I would be grateful if you could confirm whether you have had any correspondence with *[YOT/children's services/the child's family]* about identifying a package of suitable accommodation and support for *[insert the name of the child]* and the outcome of those discussions.

I look forward to hearing from you.

## Annex 5: Care statuses and legal entitlements of children in custody

Status and legislation	Eligibility	Legal duties and entitlements
<p>Looked after child on remand (s.104 LASPO Act)</p> <p><b>Remand only</b></p>	<p>All children who are remanded to youth detention accommodation (a secure children's home, secure training centre or young offenders institution) are <b>looked after</b> while they are on remand</p>	<ul style="list-style-type: none"> <li>- appoint an independent reviewing officer (IRO)</li> <li>- appoint a social worker to carry out an initial assessment of the child's needs</li> <li>- use this information to prepare a Detention Placement Plan (DPP) which should describe how the custodial placement will meet the child's needs and record the roles and responsibilities of the other partner organisations. If the child is subject to a care order or is a relevant child their DPP will be based on the assessment informing the child's current care or pathway plan.</li> </ul>
<p>Looked after child voluntarily (s.20 Children Act 1989)</p> <p><b>Community only</b></p>	<p>A child who requires accommodation because</p> <ul style="list-style-type: none"> <li>– no person has parental responsibility for them; or</li> <li>– they have been lost or been abandoned; or</li> <li>– the person who has been caring for the child is prevented permanently or not, from providing him or her with suitable accommodation or care</li> </ul> <p>will become a <b>looked-after</b> child. If the child is under 16 then someone with parental responsibility must consent. If the child is 16 or 17 then they must consent themselves.</p>	<ul style="list-style-type: none"> <li>– appoint an independent reviewing officer (IRO)</li> <li>– appoint a social worker</li> <li>– create a care plan based on an assessment of needs which should include a health plan and placement plan and must be created before the child is placed in accommodation, or at the very latest 10 days after the placement has started</li> <li>– safeguard and promote the welfare of the child</li> </ul>
<p>Looked after child following a court order (s.31 Children Act 1989 – full care order)</p> <p><b>Remand, sentenced and community</b></p>	<p>A child in custody who is subject to a full care order remains <b>looked after</b> even when s/he is sentenced</p>	<ul style="list-style-type: none"> <li>– appoint an independent reviewing officer (IRO)</li> <li>– appoint a social worker</li> <li>– create a care plan based on an assessment of needs which should include a health plan and placement plan</li> </ul>

		<ul style="list-style-type: none"> <li>– safeguard and promote the welfare of the child</li> </ul>
<p>Eligible child (para 19B of Schedule 2 Children Act 1989, and regulation 40 - 44 of the Care Planning, Placement and Case Review (England) Regulations 2010 (S.I. 2010/959))</p> <p><b>Remand, sentenced (if on a full care order) and community</b></p>	<p>A child who:</p> <ul style="list-style-type: none"> <li>• is 16 or 17 years old; AND</li> <li>• has been looked after for 13 weeks or more, starting on or after the child's 14<sup>th</sup> birthday; AND</li> <li>• has been looked after for at least one day aged 16 or 17 <u>OR</u> they turned 16 in custody, and before going into custody had been looked after for 13 weeks; AND</li> <li>• is currently a looked after child.</li> </ul>	<ul style="list-style-type: none"> <li>– appoint an independent reviewing officer (IRO)</li> <li>– Prepare an assessment needs</li> <li>– as soon as possible after the assessment of needs is completed, prepare a pathway plan which includes the child's care plan</li> <li>– keep the pathway plan under regular review</li> <li>– appoint a personal adviser</li> </ul>
<p>Former looked after child in custody (s.23ZA of the Children Act 1989)</p> <p><b>Sentenced only</b></p>	<p>A child who:</p> <ul style="list-style-type: none"> <li>• was voluntarily accommodated (under section 20 of the Children Act 1989) before being sentenced; AND</li> <li>• will be released from custody before their 16<sup>th</sup> birthday; OR</li> <li>• is 16 and 17 but is not subject to a full care order or a relevant child</li> </ul> <p>is a <b>former looked after child</b></p>	<ul style="list-style-type: none"> <li>– appoint a social worker to visit the child and assess needs</li> <li>– complete an assessment of needs report which should conclude with an analysis that sets out clearly the social worker's views about the advice, assistance and support that the child will need whilst in custody (in accordance with s.17 Children Act 1989) and on release.</li> </ul>
<p>Child in need (s.17 of the Children Act 1989)</p> <p><b>Sentenced and community</b></p>	<p>A child who is:</p> <ul style="list-style-type: none"> <li>• unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development;</li> <li>• whose health or development is likely to be significantly impaired, or further impaired, without the provision for him of such services; or</li> </ul>	<ul style="list-style-type: none"> <li>– appoint a social worker to assess needs</li> <li>– complete assessment of needs report which should conclude with an analysis that sets out clearly the social worker's views about the advice, assistance and support that the child will need whilst in custody (in accordance with s.17 Children Act 1989) and on release.</li> <li>– safeguard and promote the welfare of the child</li> </ul>



	<ul style="list-style-type: none"> <li>• who is disabled.</li> </ul> <p>is a <b>child in need</b>.</p>	
<p>Relevant child (s.23A and s.23B Children Act 1989)</p> <p><b>Sentenced and community</b></p>	<p>A child who:</p> <ul style="list-style-type: none"> <li>• is not on a full care order or on remand; AND</li> <li>• is 16 or 17 years old; AND</li> <li>• has been looked after for 13 weeks or more, starting on or after the child's 14<sup>th</sup> birthday; AND</li> <li>• has been looked after for at least one day aged 16 or 17 <u>OR</u> they turned 16 in custody, and before going into custody had been looked after for 13 weeks</li> </ul> <p>is a <b>relevant child</b></p>	<ul style="list-style-type: none"> <li>– prepare an assessment of the child's needs</li> <li>– as soon as possible after any assessment of needs is completed, prepare a pathway plan</li> <li>– keep the pathway plan under regular review</li> <li>– appoint a personal adviser for the child (unless they already did so when he was an eligible child) [section 23B(2) of the 1989 Act];</li> <li>– safeguard and promote the relevant child's welfare by maintaining him, providing him with or maintaining him in suitable accommodation and providing assistance in order to meet his needs in relation to education, training or employment as provided for in his pathway plan</li> </ul>
<p>Qualifying young person (s.24 Children Act 1989)</p> <p><b>Sentenced and community</b></p>	<p>A young person who is under 21 and at any time after reaching the age of 16 but while still a child was, but is no longer, looked after, accommodated or fostered.</p>	<ul style="list-style-type: none"> <li>– appoint a social worker to carry out an assessment of needs to establish whether they require advice and assistance.</li> <li>– if the initial assessment concludes that support will be necessary over a period of time, draw up a plan with the child outlining the support that will be provided.</li> </ul> <p>In order to determine the extent of the support required, a core assessment may be required and the plan that follows might follow the same format as a pathway plan for a relevant or former relevant child. The plan will outline the support to be provided to the child, including, if necessary, any financial support. The plan should be drawn up by a social worker or suitably qualified person.</p>

<p>Former relevant child (s. 23C(1) Children Act 1989)</p> <p><b>Sentenced and community</b></p>	<p>A child who turns 18 and prior to turning 18 was an eligible or relevant child will become <b>a former relevant child</b></p>	<ul style="list-style-type: none"> <li>- take reasonable steps to keep in touch</li> <li>- continue to keep the pathway plan under regular review</li> <li>- continue the appointment of the personal adviser up to age 25</li> <li>- provide financial assistance by contributing to the former relevant child's expenses in living near the place where he is, or will be, employed or seeking employment, if his welfare requires it</li> <li>- provide financial assistance to enable him to pursue education or training if his welfare and educational and training needs require it</li> <li>- pay the higher education bursary if the former relevant child pursues higher education in accordance with his pathway plan</li> <li>- other assistance, as far as his welfare requires it</li> </ul>
--	--	--

## Annex 6: Sentence types

Children can get five types of sentence. The arrangements differ for each one and the child's criminal solicitor should always explain to the child how their sentence will apply to them. Further information is available on the Youth Justice Board's website.

### **Detention and Training Order**

If a child gets a **Detention and Training Order ("DTO")**, they will be automatically released at the halfway point under supervision at the latest. But the order is not over at the point of release. The child is released under supervision of the YOT (or if the child turns 18 in the course of the order, probation). If the child breaks the terms of their supervision they can be returned to court and either receive an additional three months or be directed to remain in custody until the end of their original sentence.

Early release for good behaviour is available for longer DTOs:

- up to one month before the halfway point for sentences of eight months, and
- up to two months before the halfway point for sentences of 18 months or more.

For most offence types, there is a presumption of early release. The exception is for certain serious offences. Suitable accommodation will need to be in place for early release to take place, although it should not be rejected on that ground alone.

However, even where a child has been sentenced for one of these offences and early release is therefore not presumed, it can still be achieved by making exceptional progress on the sentence plan. All early release is electronically monitored (Youth Justice Board, 2014).

Release may also be delayed up to one or two months after the midpoint (for a sentence of eight / 18 months or more, respectively) on grounds of bad behaviour.

### **Fixed determinate sentence for a grave crime (s.91, Power of Criminal Courts (Sentencing) Act 2000)**

Where a child has been convicted of a grave crime (one that could result in a sentence of 14 years or more in the case of an adult), they should be informed that they will always be released at the midpoint. Between the midpoint and the sentence end date the child will be on licence. It is critical to ensure the child is aware that they can be recalled (without the agreement of the court) at any point for breaking the conditions of the licence. Recall can either be for a fixed term of 28 days or until the Parole Board or Secretary of State authorises release again. Legal aid is available for parole board reviews.

A child may be eligible for Home Detention Curfew ("HDC") on an electronic tag up to 135 days before the midpoint where they are serving a sentence of under

four years. Prison Service guidance governs the process. As with early release on DTOs some offences are presumed unsuitable but can still be considered.

### **Extended determinate sentence (s.226B, Criminal Justice Act 2003)**

An **extended determinate sentence**, comprising a custodial term and an extended licence period, will have an automatic release date which should be calculated and explained to the child. Also, depending on the length of the sentence and the nature of the offence there may be the option to apply for parole before that time (at the two-thirds point). Whether released early or at the automatic conditional release date, they will remain eligible for recall to custody (without the agreement of the court) until the end of their full term (original custodial term and extended licence period). Once recalled, release will be at the discretion of the parole board who will review the case annually. Legal aid is available for parole board reviews.

### **Discretionary and mandatory life sentences (s.90, Power of Criminal Courts (Sentencing) Act 2000)**

**Discretionary and mandatory life sentences** include a minimum term set by the court after which the parole board has the discretion to direct release on parole under life licence.

The child is entitled to be considered for the possibility of a pre-tariff review three years before the end of the minimum term or, where the term is of five years or less, at the halfway through the minimum term. A pre-tariff review is a parole board review where the board can recommend whether or not the person should progress from closed to open conditions. It is not an automatic process. The Secretary of State decides who should get a pre-tariff review by considering reports prepared by the prison and professionals.

Anyone serving a mandatory life sentence for murder committed and convicted as a child (called an '**HMP sentence**') is entitled to a review of their minimum punishment period – as a matter of policy this falls at the halfway point of the minimum term, but a case could be made to bring this forward where the person is serving a very short term. The minimum term review is conducted by the High Court, and those eligible will be invited to apply by the Ministry of Justice.

Children are entitled to representation at a minimum term review, and legal aid is available through specialist prison law solicitors. The Court is provided with a dossier of information about the progress the child has made and has to determine whether or not the child has made 'exceptional and unforeseen' progress. If the Court reduces the minimum term this will allow the child to be considered for open conditions earlier and increase the chance of being released at the earliest possible release date. The usual reduction is one year but the Court is not restricted and there are instances where longer reductions have been made.

Children are rarely made aware of the minimum term review or pre-tariff review process at point of sentence so it is important to make sure that they understand that their behaviour in prison can make a big difference.

It is important that the child and anyone supporting them obtains documentary evidence of progress as in most cases these reviews will take place once the child is in an adult establishment and there is always a risk that evidence of progress will not be available to the new prison.

## **Annex 7: Letter requesting MAPPA minutes and chance to make representations**

Dear [MAPPA Chair and MAPPA coordinator]

I am a *[insert role]* at *[insert secure unit/STC/YOI]*. I am currently working with *[insert the name of the child]*.

I understand that *[name of the child]* is managed by MAPPA at level *[x]* and that a meeting was held on *[date]* to discuss *[his/her]* case.

### **Request for a summary of the minutes**

Paragraph 13b.22 of version 4.5 of the [MAPPA guidance](#) (2012) confirms that:

*Good practice includes discussing with offenders their risk assessment and risk management plan and explaining how the MAPPA arrangements work to support the management of risk. Where offenders ask, they are entitled to know what is written down about them, albeit with some caveats. This applies to MAPPA minutes in the same way as it does to case records.*

In accordance with paragraph 13b.23 of the MAPPA guidance, *[name of the child]* is entitled to see a summary of the MAPPA minutes.

I would be grateful if you could provide a summary of the MAPPA minutes from *[insert a timeframe e.g. the most recent meeting/the last three meetings where the child's case was discussed.]*

### **Request for an opportunity to make representations**

Paragraphs 12.23 and 12.24 of the MAPPA guidance confirm that:

*12.23 Offenders should know that they are being managed through MAPPA, what MAPPA is, and what this means for them. The MAPPA leaflet 'Information for Offenders' should be used for this purpose. This responsibility should be discharged by the Offender Manager or Case Manager primarily involved with the offender.*

*12.24 It may be helpful to invite the offender to write down, or to tell the offender manager, information they would like to be discussed at a level 2 or level 3 meeting. (See also 13a.24 and 26.48.)*

*[name of the child]* would like to have an opportunity to make representations prior to assist and inform your discussions.

Please can you also confirm when *[name of the child]*'s case is next going to be discussed by MAPPA.

I look forward to hearing from you.

## Annex 8: Child in need referral

Children's Social Care  
Social Care Buildings  
Children's Avenue  
Social Care Town  
SC1 1SC

[date]

Dear Sir / Madam

**Re: Urgent referral for support under section 17 of the Children Act 1989**

**Name:**

**DOB:**

**Location:**

I am writing to request an urgent Child in Need assessment for  
.....

[name] lived at [insert full address] before coming to prison.

The reason I am making this request is.....

**Key Vulnerabilities & Circumstances:**

**Urgency**

[name] will be leaving prison on or around [insert date] but has [nowhere to live and/or insufficient support]

**Action requested:**

Please assess the above-named child for support under section 17 of the Children Act 1989 as a matter of urgency. If you are unable to complete your assessment immediately, please provide interim support while you are carrying out the assessment.

Please ensure the assessment covers accommodation and section 20 support on release as required by the leading case of G v Southwark [2009] UKHL 26.

Please confirm your proposed course of action by contacting me.

Yours

[Your name]  
Job Title

## **Annex 9: Email to local authority seeking confirmation of arrangements for release**

Dear [x]

I am a *[insert role]* at *[insert secure unit/STC/YOI]*. I am currently working with *[insert the name of the child]*.

You will be aware that *[name of the child]* is going to be released from *[name of the secure unit/STC/YOI]* on *[insert date]*. I understand that *[name of the child]* is owed duties by

I am writing to request an update on the package of accommodation and support that will be provided to *[insert the name of the child]* upon release from custody.

I require information by *[insert step 1 date]*. You have a duty to provide us with the following information:

- who is collecting them
- what time they are being collected
- where they will be living
- the reporting arrangements
- sources of support – including out of hours
- arrangements for education or employment
- arrangements for meeting continuing health needs
- arrangements for financial support
- the roles and responsibilities of the respective leaving care and youth offending staff and when they can expect to see them

I look forward to hearing from you.



## Annex 10: Informed consent

When considering voluntary care, the child and their carers need to be consulted in a meaningful and informed way.

They should be reminded it is voluntary and can be withdrawn at any time, that being looked after can lead to long-term care rights and that it does not just mean “foster” or “residential” care but can include independent accommodation with floating support.

A 16 or 17-year-old child leaving custody can decide that they do not wish to be provided with accommodation by children’s services under section 20 Children Act 1989. **This should be a rare and exceptional step.**

In these circumstances it is **very important** that children’s services are clear that the child’s decision is properly informed and has been reached after careful consideration of all the relevant information. If the child is subsequently not accommodated by housing services and remains homeless, housing services must inform children’s services who may need to take further action.

Where a 16 or 17-year-old child in need wishes to refuse accommodation offered under s.20 of the Children Act 1989, children’s services must be satisfied that the child:

- has been provided with all relevant information;
- is competent to make such a decision; and
- that they do not need to take additional safeguarding action.

Children should have access to independent advocacy and support to assist them in weighing up the advantages and disadvantages of not being looked after, including the consequences of this when they turn 18. Every 16-17 year old assessed as being a child in need but who does not wish to be accommodated under s.20 should have a child in need plan setting out the services that will be provided to meet their needs.

If it is not clear whether the child is entitled to accommodation and support from children’s services, the child should be supported to seek legal advice.

## **Annex 11: The Howard League's legal service for children in need of support**

The Howard League's legal team consists of solicitors and legal caseworkers.

Although a charity, the legal team provides the same level of service for the clients it represents as a legal firm. In addition, the team can also provide some limited informal advice to young people and professionals supporting them if necessary, on a confidential basis.

### **Who can contact the Howard League?**

Children can contact the legal team on the Howard League's advice line. It is free, confidential and is automatically on PINs in YOIs and an approved number at STCs. The number is 0808 801 0308 and it is open each week day between 9.30am and 12 noon.

Professionals or concerned adults can contact the legal team on behalf of children and young people. Professionals and relatives should contact the Howard League on 0207 249 7373 – extension 3 for the legal team in office hours (between 9am and 5pm). The freephone number is for young people only. The legal team can take information and provide initial advice, but as it is a young person led service, Howard League lawyers will need the consent of the child to take any action on their behalf.

### **What can the Howard League legal team do?**

A lawyer will take initial information about the child and seek to identify any legal problems and solutions.

If a child needs a solicitor, the Howard League will try to take on their case. If the team does not have capacity, every effort will be made to find a solicitor who can help.

### **When to contact the Howard League legal team**

The guide identifies key points at which children should be supported to seek legal advice. If you are working with a child who is not receiving the support that they are entitled to then you should support them to access legal advice at the earliest opportunity. It is much easier for lawyers to take on and refer cases if where there is plenty of time prior to release from custody. If you are unsure about whether or not a child needs legal advice then please contact the legal team for some initial advice. The Howard League gets calls about all sorts of issues concerning children's reintegration from custody into the community.

Examples include:

- children's services will not accept their duty to provide a child with accommodation and support, saying that it is the responsibility of the Youth Offending Service, the prison or the child's family to provide them with accommodation.
- children's services say that the child should present as homeless when they are released.
- children's services will not find a placement for a child because the Youth Offending Service is not supporting release.
- in cases where there is a fixed release date, children's services will not find a placement until a day or two before release because it is too expensive to reserve the placement.
- in cases where there is not a fixed release date (e.g. early release, release on Home Detention Curfew, recall and parole) children's services will not confirm details until release is directed.
- children's services will not pay for a placement because it is too expensive.
- the accommodation being proposed by children's services is not suitable because of the type of accommodation or the location of the accommodation.
- an address is identified for a child in advance of release but falls through prior to release date and there is no contingency plan in place.
- children's services say that they have searched extensively but cannot find an appropriate placement for the child.

## Annex 12: References

Beyond Youth Custody (nd)

<http://www.beyondyouthcustody.net>

Department for Education (2015) *Children Act Guidance Volume 2*

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/441643/Children\\_Act\\_Guidance\\_2015.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/441643/Children_Act_Guidance_2015.pdf)

Gibbs, P. and Radcliffe, F. (2018) *Path of little resistance: is pre-trial detention of children really a last resort?* Transform Justice

[http://www.transformjustice.org.uk/wp-content/uploads/2018/12/TJ-December-2018-PRINT\\_V2-December.pdf](http://www.transformjustice.org.uk/wp-content/uploads/2018/12/TJ-December-2018-PRINT_V2-December.pdf)

Gooch, K. (2016), *A Childhood Cut Short: Child Deaths in Penal Custody and the Pains of Child Imprisonment*. The Howard Journal of Crime and Justice, 55: 278-294.

<https://onlinelibrary.wiley.com/action/showCitFormats?doi=10.1111%2Fhojo.12170>

Her Majesty's Inspectorate of Prisons (2019) *Children in Custody 2017–18*

<https://www.justiceinspectors.gov.uk/hmiprisons/inspections/children-in-custody-2017-18/>

Independent Inquiry into Child Sexual Abuse (IICSA) (2019) *Sexual Abuse of Children in Custodial Institutions: 2009-2017 Investigation Report*

<https://www.iicsa.org.uk/publications/investigation/custodial>

Judicial College (2017) *Youth Court Bench Book*

<https://www.sentencingcouncil.org.uk/wp-content/uploads/youth-court-bench-book-august-2017.pdf>

Lammy, D. (2017) *The Lammy Review, An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System*

<https://www.gov.uk/government/organisations/lammy-review>

McAra, L. (2018) *Child friendly youth justice?*, National Association of Youth Justice

<http://thenayj.org.uk/wp-content/uploads/2019/02/NAYJ-Child-friendly-youth-justice-May-18.pdf>

Ministry of Justice (2019) *Statistics on Race and the Criminal Justice System 2018 A Ministry of Justice publication under Section 95 of the Criminal Justice Act 1991*

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/849200/statistics-on-race-and-the-cjs-2018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/849200/statistics-on-race-and-the-cjs-2018.pdf)

Ministry of Justice (2012) *MAPPA guidance*

<https://www.gov.uk/government/publications/multi-agency-public-protection-arrangements-mappa--2>

Social Exclusion Unit (2002) *Reducing Reoffending by ex-prisoners*, London: ODPM

<https://www.bristol.ac.uk/poverty/downloads/keyofficialdocuments/Reducing%20Reoffending.pdf>

Youth Justice Board (2018) *How to make resettlement constructive*

<https://yjresourcehub.uk/yjb-effective-practice/youth-justice-kits/item/610-how-to-make-resettlement-constructive-yjb-document.html>

Youth Justice Board (2019) *Custody and resettlement: section 7 case management guidance*

<https://www.gov.uk/government/publications/custody-and-resettlement/custody-and-resettlement-section-7-case-management-guidance>

Youth Justice Board (2019), *Standards for Children in Youth Justice*

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/780504/Standards\\_for\\_children\\_in\\_youth\\_justice\\_services\\_2019.doc.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/780504/Standards_for_children_in_youth_justice_services_2019.doc.pdf)

For more information visit  
[www.howardleague.org](http://www.howardleague.org)

1 Ardleigh Road  
London  
N1 4HS

t 020 7249 7373  
e [info@howardleague.org](mailto:info@howardleague.org)  
w [www.howardleague.org](http://www.howardleague.org)  
@TheHowardLeague

Registered charity No. [251926](#)  
Company limited by guarantee No. [898514](#)

December 2019

ISBN 978-1-911114-40-6



9 781911 114406 >  
ISBN 978-1-911114-40-6