

Sentencing Children

04

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“ It has been recognised for some time that the brains of young people are still developing up to the age of 25, particularly in the areas of the frontal cortex and hippocampus. These areas are the seat of emotional control, restraint, awareness of risk and the ability to appreciate the consequences of one’s own and others’ actions; in short, the processes of thought engaged in by, and the hallmark of, mature and responsible adults. It is also known that adverse childhood experiences, educational difficulties and mental health issues negatively affect the development of those adult thought processes. Accordingly very particular considerations apply to sentencing children and young people who commit offences. It is categorically wrong to set about the sentencing of children and young people as if they are “mini-adults”. ”

-R v ZA [2023] EWCA Crim 596 para 52

Sentencing of children

The [Overarching Principles, Sentencing Children and Young People](#) set out the relevant considerations that distinguish the sentencing of children from general sentencing principles.

- Rehabilitation and re-integration are more important considerations than punishment. The principle aim of the youth justice system is to prevent re-offending.¹
- There should be a deliberate aim not to criminalise children unnecessarily.²
- Regard must be made to the welfare of the child.³ Consideration of welfare includes the court being alert to any mental health or learning difficulties/disabilities; brain injury or traumatic life experience; speech and language difficulties; the vulnerability of children and young people to self-harm, particularly within a custodial environment; and the effect on children and young people of experiences of loss and neglect and/or abuse.⁴
- Children are less culpable than adults because of their immaturity.⁵ When considering a child or young person’s age, their emotional and developmental age is of at least equal importance to their chronological age (if not greater).⁶
- Children are much more likely than adults to change their offending behaviour and to respond to positive support.⁷ Children tend to go through phases of offending which they grow out of and go on to lead responsible lives.⁸
- The impact on a young person of the loss of liberty and associated risks of contamination by association are huge. A custodial sentence should always be a measure of last resort and only be imposed when the offence is so serious that no other sanction is appropriate.⁹
- The approach to sentence should be individualistic and focused on the child or young person, as opposed to offence focused, and the sentence should focus on rehabilitation where possible.¹⁰
- Courts should consider why children may conduct themselves inappropriately in court and take this into account.¹¹

- The Overarching Principles 2017 highlight the over-representation of care-experienced children and children from minority ethnic backgrounds. Courts are invited to take a child's background into consideration when determining sentence.¹²

In determining sentence, the key elements are:

- the principal aim of the youth justice system (to prevent re-offending by children and young people);
- the welfare of the child or young person;
- the age of the child or young person (chronological, developmental and emotional);
- the seriousness of the offence (analysing the harm caused and culpability of the offender);
- the likelihood of further offences being committed; and
- The extent of harm likely to result from those further offences.¹³

Proper regard should be had to the mental health and capability of the young person, and to any learning disability, learning difficulty, speech and language difficulty or other disorder, any of which is likely to affect the likelihood of those purposes being achieved.¹⁴

In assessing the culpability of the child, the following factors should be considered:¹⁵

- The extent to which the offence was planned;
- The role of the child;
- The level of force used (if any);
- The extent to which the offender was aware of the possible consequences of their actions;
- The inherent vulnerability of children and young people (compared with adults);
- Any mental health problems or learning disabilities;
- Their emotional and developmental age;
- Any external factors that may have affected their behaviour.

¹ Crime and Disorder Act 1998, section 37 & Sentencing Code, section 58; Overarching Principles 2017, para 1.1

² Overarching Principles 2017, para 1.4

³ Section 44, Children and Young Persons Act 1933.

⁴ Overarching Principles 2017, para 1.1 & 1.11-1.21

⁵ Overarching Principles 2017, para 1.5 1.10

⁶ Overarching Principles, 2017, para 1.5 & R v N, D and L [2011] 1 Cr App R (S) 22.

⁷ Overarching Principles 2017, para 1.6

⁸ Overarching Principles 2017, para 1.7

⁹ Overarching Principles, para 1.3

¹⁰ Overarching Principles 2017, para 1.2 & 4.3

¹¹ Overarching Principles, 2017, Footnote para 1.15

¹² Overarching Principles 2017, para 1.17 1.21

¹³ Overarching Principles 2017, para 4.1

¹⁴ Overarching Principles 2017, para 1.12

¹⁵ Overarching Principles 2017, para 4.5

Guidance on guilty pleas is set out at section 5 of the Overarching Principles. It encourages those who are going to plead guilty to do so as early as possible. This should not prevent advocates from seeking adjournments where further information, such as from a psychologist or psychiatrist, is required.¹⁶

There are currently three youth-specific Sentencing Council guidelines:

- [Sexual offences](#);
- [Robbery](#); and
- [Possession of bladed articles and offensive weapons](#).

Where none of the above apply, the Court may only consult the equivalent adult guideline if the court is satisfied that the offence crosses the custody threshold and that no other sentence is appropriate.¹⁷ Where the Court does consider this, it is proposed by the Definitive Guideline that the Court may feel it appropriate to apply a sentence broadly within the region of half to two thirds of the adult sentence for those aged 15–17 and allow a greater reduction for those aged under 15. However, this calculation is not to be applied mechanistically.¹⁸

Sentencing options

The youth court has several methods of disposal when dealing with a child who has pleaded guilty to or been found guilty of an offence:¹⁹

- Absolute discharge
- Conditional Discharge
- Reparation Order
- Fine
- Referral Order
- Youth Rehabilitation Order
 - Intensive Supervision and Surveillance (ISS)
 - Intensive Fostering (IF)
- Detention and Training Order (DTO)
- Committal for sentence
- Ancillary orders
 - Victims Surcharge
 - Parental Orders and Parental bindovers
 - Criminal Behaviour Order (CBO)
 - Sexual Harm Prevention Order (SHPO)

¹⁶ Overarching Principles 2017, Footnote paras 5.16 & 5.17

¹⁷ Overarching Principles 2017, para 6.45 and R v H [2018] EWCA Crim 541

¹⁸ Overarching Principles 2017, para 6.46

¹⁹ Overarching Principles 2017, p.23 table of sentencing options

Absolute Discharge

The court decides that it is not appropriate to give any punishment. The child will have a criminal record [but the conviction becomes spent immediately](#).

Conditional Discharge

No punishment is imposed, but if another offence is committed during the period of the conditional discharge (which may not exceed 3 years), the child will be brought back to court and they will be sentenced for both offences.

Conditional discharges are not available if a child has received two youth cautions or a youth conditional caution within the previous two years, unless there are exceptional circumstances.²⁰

Reparation Order

Section 162 of the Police, Crime, Sentencing and Courts Act 2022 abolishes Reparation Orders for offences after the PSSC Act came into force.

Fine

Children aged 14-17 can be fined up to £1,000. There is a maximum fine of £250 for children aged 10-13.

Where the offender is under 16, the court must order any financial penalty to be paid by the offender's parent or guardian and may so order when aged 16 or 17. A fine cannot be imposed where the requirements for a mandatory Referral Order are met.

²⁰ Section 66ZB, Crime and Disorder Act 1998 & section 80(3), Sentencing Code

Referral Order

This is the most common community disposal in the youth court. A Referral Order is only available for under 18 year-olds (though a child remains eligible for a Referral Order if they were under 18 when they pleaded guilty or were convicted, even if they have turned 18 by the sentencing hearing).

The consequences of being given a Referral Order are that the child is no longer dealt with by the court but they are referred to a youth offending panel with their parent. The panel then decides what should happen.

A Referral Order can last 3-12 months (the length of the Order is determined by the severity of the offending).

A Referral Order is a mandatory sentence when children plead guilty for the first time in most circumstances:

- A youth court **must** impose a Referral Order if the compulsory “Referral Order conditions” are met:²¹ i.e., when a child pleads guilty for the first time to an imprisonable offence (previous absolute discharges or conditional discharges are disregarded) unless the court wishes to impose an absolute discharge, conditional discharge, a Detention and Training Order or a hospital order. Practitioners should be aware that youth courts do not require a Pre-Sentence Report (PSR) when the compulsory Referral Order conditions are met unless the custody threshold has or may have been passed.
- A youth court may impose a Referral Order in a much wider range of situations. The discretionary Referral Order conditions²² are met if a child defendant has pleaded guilty to at least one offence. Therefore, where the compulsory referral conditions are not met, and the child pleads guilty to the offence or at least one of any connected offence being dealt with by the court, the court may make a Referral Order.

Referral Orders should not be combined with any other sentence, including a fine,²³ bind over or parental bind over, other than an absolute discharge for an associated offence. The court can impose costs and compensation orders.

Referral Orders are no longer automatically revoked for subsequent offending.²⁴

Further reading: [Referral Order Guidance, Ministry of Justice & Youth Justice Board, revised](#) October 2018.

Where the child does not comply with the requirements of their ‘contract’ they can be sent back to court for re-sentencing.

The Crown Court **can** also make a Referral Order following **R v Gould and others [2021] EWCA Crim 447** and reaffirmed in **R v S [2021] EWCA Crim 960**. A Crown Court Judge can exercise their powers under Section 66 of the Courts Act 2003 to sit as a DJMC in the Youth Court.

²¹ Section 85, Sentencing Code

²² Ibid

²³ NB: Fines can be imposed for subsequent offences or non-compliance

²⁴ Schedule 4, Sentencing Code.

Youth Rehabilitation Order (YRO)

YROs are community-based sentences. Each sentence may include different requirements tailored to the particular case and can last up to 3 years. The court can impose the following requirements:

- Activity
- Supervision
- Unpaid work (16 or 17 year-old at the time of conviction and between 40–240 hours)
- Programme
- Attendance Centre
- Prohibited activity
- Curfew (up to 12 months and between 2-16 hours per day)
- Exclusion
- Electronic monitoring
- Residence (16 or 17 year-old at the time of the conviction)
- Local authority residence (maximum of 6 months or until reaches age of 18)
- Mental health treatment (the child must be willing)
- Drug treatment (the child must be willing)
- Intoxicating substance treatment (the child must be willing)
- Education
- Intensive Supervision and Surveillance (ISS) requirement . An ISS is a very intensive community-based programme where, instead of going to prison, individuals are closely monitored in the community. It includes an extended activity requirement, supervision and an electronic tagged curfew (unless this is inappropriate). An ISS can be given as part of a bail package or as a sentence. It must be made for a minimum of 6 months. PCSC Act 2022 amends YRO with ISSP to allow for electronic whereabouts monitoring.
- Intensive Fostering (IF) (min 6 months, max 12 months). It is also an alternative to custody. The court must be satisfied that a significant factor in the offence was the circumstances in which the child was living and that the imposition of a fostering requirement would assist in the rehabilitation of the young person. A supervising requirement must also be imposed but the Order cannot last longer than 12 months or until the child reaches the age of 18. This order cannot be made with a YRO with ISSP.

YROs with ISS or IF are only available if the court decides the offence crosses the custody threshold and custody would be an appropriate sentence. The court must obtain a PSR.²⁵

YROs with ISS and IF are only available for children aged 10-14 if they are persistent offenders (defined as having committed imprisonable offences at least 3 times in the preceding 12 months).²⁶

A YRO can be ordered to take effect on a later date, including at the conclusion of the detention part of a DTO or at the full expiry of a DTO.



Detention and Training Order (DTO)

A Detention and Training Order (DTO) is a prison sentence for 12-17 year olds. Section 158 of the PSCS Act 2022 amended s236(1) of SC. [The length of the DTO must be at least 4 months but must not exceed 24 months whereas previously terms had to be set at 4/6/12/18/24 months. DTOs can be imposed consecutively so long as the total period is no more than two years). The first half of the sentence is spent in detention and training (custody) and, for the second half, the child is supervised in the community by the Youth Justice Service (YJS). Breach of the supervision requirements can lead to the child being sent back to custody. The period of detention and training is usually half of the order but there are exceptions to this.

Children who are aged between 12 and 14 can only receive a DTO if they are considered a persistent offender (see above).

Except in certain circumstances, a court must obtain a PSR before imposing a custodial sentence.²⁷ If a DTO is imposed, the court must give reasons for its decision and explain why a YRO with ISS or IF is not justified. The court should bear in mind the negative effects of short custodial sentences.²⁹

The advocate must inform the court of any time spent on remand or on a qualifying tag curfew.

Schedule 16 to the PCSC Act 2022 alters the previous position that time on remand did not count towards a DTO, the SC is therefore amended to remove sections 239 and 240 as originally enacted.

²⁵ Section 30(3), Sentencing Code

²⁶ Overarching Principles 2017, para 6.4

²⁷ Sections 30, 179(4), 180(4), 186(4), 186(8), 230(7) and 231(8) of the Sentencing Code and Section 156, Criminal Justice Act 2003

²⁸ Section 54 Sentencing Code and Section 174 Criminal Justice Act 2003.

²⁹ Overarching Principles, 2017, para 6.47

Detained children with special educational needs

A significant proportion of children who are detained have special educational needs.³² These needs frequently go unmet in youth custody. Under the Special Educational Needs and Disability (Detained Persons) Regulations 2015, separate provision has been made in respect of children with special educational needs in detention. The effect is to impose clear responsibilities on the local authority where the detained child is ordinarily resident (or, if applicable, the local authority which is, or was, looking after the child) (“the home authority”) to ensure that suitable educational provision is arranged.

Advocates should be aware of the following:

- Where information about a child’s educational history, including any special educational needs, are relevant to the criminal proceedings, this should be reflected in the pre-sentence report. The court may ask to see any statement of special educational needs (“statement of SEN”) or education, health and care plan (“EHC plan”).
- The YJS must notify the home authority when a child aged 18 or under is detained and if they have a statement of SEN / an EHC plan, the home authority must send it to the YJS, the person in charge of the relevant youth detention accommodation and the child’s health services commissioner.³³

Advocates should therefore take careful instructions about their client’s educational circumstances to ensure that the relevant information is, where appropriate, passed on to the YOT and the court. Please [refer to the ICCA’s film](#) on effective communication with children in the youth justice system and the ICCA Crib sheet on identifying vulnerability.

Committal for sentence

The general rule is that children should be tried and sentenced in the youth court. However, the youth court has the power to commit child defendants to the Crown Court for sentence.³⁴ The power to commit for sentence only applies to children convicted of grave crimes (all offences that have a maximum sentence for an adult of 14 years or more, specified sexual offences, firearms offences with mandatory minimum sentences or offences listed in section 249(1) of the Sentencing Code) and also where a child is charged with a specified offence³⁵ and it appears to the court that the Dangerous Offender provisions will be met.

The court may commit for sentence if it is of the opinion that the offence(s) are so serious that the Crown Court should have the power to sentence the child or young person to, what is now, section 250 long-term detention (see below). The youth court should only use this power in cases where it subsequently transpires “that the offending was more serious than it first appeared when the youth court accepted the case”. The test is whether there is a real prospect that a sentence of more than two years’ detention will be imposed.

³² Explanatory Memorandum to the Special Educational Needs and Disability (Detained Persons) Regulations 2015 (2015 Regulations)

³³ Regulation 17 of the 2015 Regulations and paragraph 10.72 of the Code of Practice.

³⁴ Sections 16-17, Sentencing Code.

³⁵ As listed at Schedule 18, Sentencing Code

Victim surcharge

The victim surcharge applies when the court is dealing with an offender for offences committed on or after 1 October 2012. Advocates should check the Sentencing Council website for current levels.

Parenting Orders and Parental Bind overs

Parenting Orders compel the parents of a child who has offended to address their parenting skills. Parents can also be subject of a Parental Bind over after a child has been found guilty of an offence. This amounts to a promise to the court to take proper care and exercise proper control over that child. A length of time will be imposed for the Bind over but it cannot last beyond 3 years or the child's 18th birthday.

Criminal Behaviour Order (CBO)

A Criminal Behaviour Order (CBO) is a post-conviction sanction to address anti-social behaviour. CBOs replace post-conviction Anti-Social Behaviour Orders (ASBOs).

After a conviction, the prosecution can apply for a CBO. If granted, the court can attach conditions, for example, to prevent the child visiting certain places, associating with certain individuals or becoming involved in certain activities.

A CBO is an order designed to tackle the most serious and persistent anti-social individuals where their behaviour has brought them before a criminal court.

The anti-social behaviour to be addressed does not need to be connected to the criminal behaviour, or activity which led to the conviction. However, if there is no link the court will need to reflect on the reasons for making the order.

The court cannot make a CBO of its own volition.

A CBO may only be made against an offender when they have been sentenced to at least a Conditional Discharge for the substantive offence.³⁶ A CBO cannot be made where the offender has been given an absolute discharge.

³⁶ Section 331(3), Sentencing Code



The court may only make a CBO if it is satisfied that two conditions are met:³⁷

- 1) The court must be satisfied, beyond reasonable doubt, that the offender has engaged in behaviour that caused, or was likely to cause, harassment, alarm or distress to one or more persons, and
- 2) that the court considers that making the order will help in preventing the offender from engaging in such behaviour.

For the first condition, the burden of proof on the prosecution is to the criminal standard, beyond reasonable doubt.

Sexual Harm Prevention Order (SHPO)

This order replaced an SOPO (Sexual Offences Prevention Order) from 2014.

An SHPO is an order to prevent an offender from doing certain things specified in the order,³⁸ and is designed to protect the public from sexual harm.

SHPOs can be made in relation to anyone who has been convicted of an offence listed in either Schedule 3 or Schedule 5 to the Sexual Offences Act 2003³⁹ either in the UK or overseas.

The court can make a SHPO of its own volition or one may be applied for by the prosecution.

In order to make a SHPO, the court must be satisfied that the offender, in this case a child, presents a risk of sexual harm to the public (or particular members of the public) and that an order is necessary to protect against this risk.⁴⁰ The details of the offence are likely to be a key factor in the court's decision, together with the offender's previous convictions and assessment of risk presented by the national probation service in any pre-sentence report.

The only prohibitions which can be imposed by a SHPO are those which are necessary for the purpose of protecting the public from sexual harm from the defendant. These can, however, be wide-ranging.

The order may include only negative prohibitions; there is no power to impose positive obligations. The order may have effect for a fixed period (not less than five years) or until further order. It can be appealed, discharged or there may be a new order.

³⁷ Sections 22-33 of the Sentencing Code.

³⁸ Section 343, Sentencing Code

³⁹ Section 345, Sentencing Code

⁴⁰ Section 346, Sentencing Code

Sentencing Children in the Crown Court

The presumption is that the Crown Court (or adult magistrate's court) will remit children to their local Youth Court. The Crown Court must remit children to the youth court for sentence unless it is "undesirable" (with the exception of homicide offences).⁴¹ In considering whether remittal is "undesirable", "the court should balance the need for expertise in the sentencing of young offenders with the benefits of sentence being imposed by the court which had determined guilt."⁴² **Advocates should refer to R v ZA [2023] EWCA Crim 596 for the correct approach to be taken.**

Only the Crown Court can sentence an offender who is under 18 to a custodial sentence longer than 2 years (the maximum custodial sentence available to the Youth Court is a 2 year DTO).

Where the criteria for making a Referral Order would be met if the child was sentenced in the youth or magistrate's court, and a Referral Order is the most appropriate sentence, the Crown Court should remit the offender to the youth court. The Crown Court can also make a Referral Order following R v Gould and others [2021] EWCA Crim 447 and reaffirmed in R v S [2021] EWCA Crim 960. A Crown Court Judge can exercise their powers under Section 66 of the Courts Act 2003 to sit as a DJMC in the Youth Court.

Custodial sentencing options in the Crown Court:

- Detention and Training Order (DTO) for 12-17 year olds and Section 250 Detention

For more serious offences in the Crown Court, longer term detention is available where the offence is a grave crime (see above).⁴⁴ Note that the Court must be of the opinion that neither a YRO or a DTO is suitable⁴⁵ and, therefore, a sentence under the grave crimes provision should not generally be passed for less than 24 months.

- Extended sentences
 - If a young person is found to be a dangerous offender they can be sentenced to extended detention or detention for life.
 - An extended detention is calculated by the aggregate of the appropriate custodial term and the extension period for which the offender is to be subject to a licence.
 - The child must have been convicted of a specified offence⁴⁶ and the court is satisfied that there is a significant risk to members of the public of serious harm by the commission of further specified offences (the dangerous criteria).⁴⁷
 - A sentence of extended detention may be imposed only where the appropriate custodial term would be 4 years or more and the extension period must be at least 1 year but not exceed 5 years in the case of a specified violent offence and 8 years in the case of a specified sexual offence.

⁴¹ Section 25(1) Sentencing Code

⁴² Overarching Principles 2017, para 2.15

⁴⁴ Section 250, Sentencing Code

⁴⁵ Section 251, Sentencing Code

⁴⁶ Schedule 18, Sentencing Code

⁴⁷ Section 255, Sentencing Code

- The term of the extended sentence of detention must not exceed the maximum term of imprisonment for an adult offender convicted of that offence.
- A sentence of detention for life can be imposed where the child is convicted of a specified offence,⁴⁸ if the court considers the severity of the offence justifies the imposition of a sentence of detention for life and the dangerous criteria are met.⁴⁹
- A sentence of detention for life should be used as a last resort when an extended sentence is not able to provide the level of public protection that is necessary. The court is required to set a minimum term which must be served in custody before parole can be considered.
- Detention during Her Majesty's Pleasure⁵⁰

This is a mandatory life sentence and will be imposed when an offender is convicted of or pleads guilty to murder. Schedule 21 to the Sentencing Code (as amended by PCSC Act 2022) determines the starting points for mandatory sentences for children depending on seriousness.

Types of secure accommodation for children

The court does not decide where a child will be sent to custody. Placement decisions are made by the Youth Justice Board.

Local Authority Secure Children's Homes (SCHs) - used for younger children and those assessed as particularly vulnerable who have been convicted of criminal offences as well as "looked after" children who need secure accommodation.

Secure Training Centres (STCs) are run by private companies.

Young Offender Institutions (YOIs) prison estate for young adults from 15-21 accommodate most child prisoners. They are Prison Service establishments, although some are "contracted out" and run by private companies.



⁴⁸ Schedule 19, Sentencing Code

⁴⁹ Section 258, Sentencing Code

⁵⁰ Section 259, Sentencing Code

Children reaching milestones

An advocate should be mindful of the age of their young client as the range of sentences available changes significantly. Delays should always be avoided if this becomes pertinent. The child's age at the date of conviction determines what lawful sentences the court can impose.

Where, due to lapse of time, the child has crossed a relevant age threshold (12, 15 or 18)⁵¹ then the child may be liable to a greater maximum sentence, or indeed different sentence entirely, than that which would have been available at the time that he/she committed the offence. In such cases the general rule to be applied by the Court is to take as the starting point the sentence likely to have been imposed on the date upon which the offence was committed.⁵² This principle is also relevant where the effect of the child crossing the relevant age threshold is to:

- create a significant disparity between the sentence received by the individual and their co-accused, who remained under 18 at the time of sentence;⁵³
- place the individual to a different and more onerous time-release provision.⁵⁴

Where a child crosses a relevant age threshold between the date of commission and conviction, the court's approach to sentence is 'to limit the extent of any period of custody to that which could have been imposed at the date when the offender committed the offence. However, what has also been made clear in those cases, is that this does not affect the type of sentencing regime which is to be applied to the offender, which is to be determined by the age of the offender at the date of conviction'.⁵⁵

Children turning 12

10 and 11 year-olds cannot receive a custodial sentence in the youth court.

Children turning 15

Upon turning 15, a child can receive a more stringent sentence. Children aged between 12 and 14 years of age cannot be given a YRO with ISS, a YRO with IF or DTO unless they are a persistent offender.

Advocates should always remember that the court must sentence a child as though they were 14 if that child turns 15 after pleading guilty (or is convicted), but before he/she is sentenced. If a child was 14 when they committed an offence but turns 15 before they plead guilty or are convicted, the court should give sufficient consideration to their age at the time of the offence.

Children turning 18

If a child turns 18 whilst a case is being dealt with in the youth court, they can continue to have their case heard in the youth court. If a child turns 18 before their case comes to court, their case must be dealt with by the adult magistrate's court.

⁵¹ Judicial College Bench Book, Youth Defendants in the Crown Court.

⁵² R v Ghafoor [2002] EWCA Crim 1857 and R v Amin [2020] 1 Cr App R (S) 36.

⁵³ R v Thomas [2020] EWCA Crim 822

⁵⁴ R v Scothern [2020] EWCA Crim 1540

⁵⁵ R v Bennett [2019] EWCA Crim 629

If a child turns 18 after he/she pleads guilty or is convicted, but before being sentenced, they are entitled to receive youth sentences and a court must impose a Referral Order if the compulsory conditions are met.⁵⁶ This is the case even though it creates practical issues in relation to supervision of Referral Orders and Youth Rehabilitation Orders. Moreover, the courts have recognised that turning 18 is not a 'cliff edge for the purposes of sentencing' and the youth and maturity of the individual remain relevant factors for the sentencing decision.⁵⁷

If a child celebrates their 18th birthday before pleading guilty or being convicted, they cannot receive youth sentences but their "age at the time of offence" must be taken into consideration. For specific application to sentencing adults for sexual offences committed when under 18 see: *Limon* [2022] EWCA Crim 39 and *Ahmed* [2023] EWCA Crim 281

Children must not receive a sentence longer than an adult.

In *B v Leeds Crown Court* and another [2016] EWHC 1230 (Admin), the High Court confirmed it is unlawful to impose a longer sentence on a child than the maximum sentence available for an adult in similar circumstances.

Children should be dealt with less severely than adult offenders albeit that the distinction diminishes as the offender approaches 18, (subject to an assessment of maturity based on chronological, emotional and developmental age).⁵⁸

Reading List

Essential reading

[Overarching Principles: Sentencing Children and Young People and offence specific guidelines for sexual offences, and robbery](#). Definitive guidance (Sentencing Council, March 2017) [effective from 1 June 2017]

[Overarching Principles Sentencing Youths](#), Sentencing Guidelines Council, November 2009

Youth Court Bench Book, Judicial College, May 2023

[Judicial College Bench Book, Youth Defendants in the Crown Court](#)

[Referral Order Guidance](#), Ministry of Justice & Youth Justice Board, revised October 2018

Police, Crime, Sentencing and Courts Act 2022

⁵⁶ *R v Danga* (Harbeer Singh) [1992] QB 1996, *R v Dennis Obasi* [2014] EWCA Crim 581

⁵⁷ *R v Clarke* [2018] EWCA Crim 185 at para 5.

⁵⁸ *Overarching Principles*; 2017, para 4.5, 4.10 & 6.46

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