

Possession of a bladed article

This is a **simplified version** of the guideline **Bladed articles and offensive weapons (having in public/education premises and threats) – children and young people**.

You can see the full version of the guideline on the Sentencing Council website.

This guideline should be read alongside the definitive guideline for sentencing children and young people, which provides comprehensive guidance on the sentencing principles and welfare considerations that the court should have in mind when sentencing children and young people.

This offence is subject to **statutory minimum sentencing provisions**. See Step 5 for further details.

The first step in determining the sentence is to assess the seriousness of the offence. This assessment is made by considering the nature of the offence and any aggravating and mitigating factors relating to the offence itself. **The fact that a sentence threshold is crossed does not necessarily mean that that sentence should be imposed.**

This guideline applies to all children or young people who are sentenced on or after 1 June 2018, regardless of the date of the offence.

Guideline users should be aware that the Equal Treatment Bench Book covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

Step 1 – Offence seriousness – nature of the offence

The lists below give **examples** of the type of culpability and harm factors that may indicate that a particular threshold of sentence has been crossed.

A non-custodial sentence* may be the most suitable disposal where one or more of the following factors apply

- Possession of weapon falls just short of reasonable excuse
- No/minimal risk of weapon being used to threaten or cause harm
- Fleeting incident and no/minimal distress

A custodial sentence or youth rehabilitation order with intensive supervision and surveillance* or fostering* may be justified where one or more of the following factors apply

- Possession of a bladed article whether produced or not
- Possession of a highly dangerous weapon whether produced or not
- Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, disability, sexual orientation or transgender identity
- Prolonged incident and serious alarm/distress
- Offence committed at a school or other place where vulnerable people may be present

* Where the child or young person appears in the magistrates' court, and the conditions for a compulsory referral order apply, a referral order must be imposed unless the court is considering imposing a discharge, hospital order or custody.

† NB an offensive weapon is defined in legislation as 'any article made or adapted for use for causing injury, or is intended by the person having it with him for such use'. A highly dangerous weapon is, therefore, a weapon, including a corrosive substance (such as acid), whose dangerous nature must be substantially above and beyond this. The court must determine whether the weapon is highly dangerous on the facts and circumstances of the case.

Step 2 – Offence seriousness – aggravating and mitigating factors

To complete the assessment of seriousness the court should consider the aggravating and mitigating factors relevant to the offence.

Aggravating factors

Statutory aggravating factors

- Previous findings of guilt, having regard to a) the **nature** of the offence to which the finding of guilt relates and its **relevance** to the current offence; and b) the **time** that has elapsed since the finding of guilt (unless the convictions will be relevant for the purposes of the statutory minimum sentencing provisions – see step five)
- Offence committed whilst on bail

Other aggravating factors (non-exhaustive)

- Significant degree of planning/premeditation
- Deliberate humiliation of victim, including but not limited to filming of the offence, deliberately committing the offence before a group of peers with the intent of causing additional distress or circulating details/photos/videos etc of the offence on social media or within peer groups
- Victim is particularly vulnerable due to factors including but not limited to age, mental or physical disability
- Offence was committed as part of a group
- Attempts to conceal identity
- Steps taken to prevent reporting the incident/seeking assistance
- Commission of offence whilst under the influence of alcohol or drugs]
- Offence committed against those working in the public sector or providing a service to the public

Mitigating factors (non-exhaustive)

- No findings of guilt **or** no relevant/recent findings of guilt
- Good character and/or exemplary conduct
- Participated in offence due to bullying, peer pressure, coercion or manipulation
- Little or no planning
- Co-operation with the police

Step 3 – Personal mitigation

Having assessed the offence seriousness the court should then consider the mitigation personal to the child or young person to determine whether a custodial sentence or a

community sentence is necessary. The effect of personal mitigation may reduce what would otherwise be a custodial sentence to a non-custodial one or a community sentence to a different means of disposal.

Personal mitigating factors (non-exhaustive)

- Particularly young or immature child or young person (where it affects their responsibility)
- Communication or learning disabilities or mental health concerns
- Unstable upbringing including but not limited to:
 - time spent looked after
 - lack of familial presence or support
 - disrupted experiences in accommodation or education
 - exposure to drug/alcohol abuse, familial criminal behaviour or domestic abuse
 - victim of neglect or abuse, or exposure to neglect or abuse of others
 - experiences of trauma or loss
- Determination and/or demonstration of steps taken to address offending behaviour
- Child or young person in education, training or employment

Step 4 – Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with section 73 of the Sentencing Code and part one, section five of the Sentencing children and young people – overarching principles definitive guideline. The reduction in sentence for a guilty plea can be taken into account by imposing one type of sentence rather than another; for example:

- by reducing a custodial sentence to a community sentence, or
- by reducing a community sentence to a different means of disposal.

Alternatively the court could reduce the length or severity of any punitive requirements attached to a community sentence.

See the Sentencing children and young people – overarching principles definitive guideline for details of other available sentences including Referral Orders and Reparation Orders.

Step 5 – Statutory minimum sentencing provisions

Threatening with Bladed Articles or Offensive Weapons

When sentencing young people aged 16 or over **at the date of conviction** for these offences a court must impose a sentence of at least 4 months Detention and Training Order **unless**:

- (If the offence was committed on or after 28 June 2022) **the court is of the opinion that there are exceptional circumstances which relate to the offence or to the young person, and justify not doing so; or**
- (If the offence was committed before 28 June 2022) **the court is of the opinion that there are particular circumstances relating to the offence or the young person which make it unjust to do so in all the circumstances.**

Having Bladed Articles or Offensive Weapons

When sentencing young people who were aged 16 or over **on the date of the offence** for the offences of:

- having an offensive weapon in a public place;
- having an article with a blade/point in a public place;
- having an offensive weapon on education premises; and
- having an article with blade/point on education premises

a court must impose a sentence of at least 4 months' Detention and Training Order where this is a **second or further** relevant offence **unless**:

- (If the offence was committed on or after 28 June 2022) **the court is of the opinion that there are exceptional circumstances which relate to any of the offences or to the young person, and justify not doing so; or**
- (If the offence was committed before 28 June 2022) **the court is of the opinion that there are particular circumstances relating to the offence, the previous offence or the young person which make it unjust to do so in all the circumstances.**

A 'relevant offence' includes those offences listed above and the following offences:

- threatening with an offensive weapon in a public place;
- threatening with an article with a blade/point in a public place;
- threatening with an article with a blade/point on education premises; and
- threatening with an offensive weapon on education premises.

Step 6 – Review the sentence

The court must now review the sentence to ensure it is the most appropriate one for the child or young person. This will include an assessment of the likelihood of reoffending and the risk of causing serious harm. A report from the Youth Offending Team may assist.

See the Sentencing children and young people – overarching principles definitive guideline for comprehensive guidance on the sentencing principles and welfare considerations that the court should have in mind when sentencing children and young people, and for the full range of sentences available to the court.

Referral orders

In cases where children or young people have offended for the first time and have pleaded guilty to committing an offence which is on the cusp of the custody threshold, youth offending teams (YOT) should be encouraged to convene a Youth Offender Panel prior to sentence (sometimes referred to as a “pseudo-panel” or “pre-panel”) where the child or young person is asked to attend before a panel and agree an intensive contract. If that contract is placed before the sentencing youth court, the court can then decide whether it is sufficient to move below custody on this occasion.

The proposed contract is not something the court can alter in any way; the court will still have to make a decision between referral order and custody but can do so on the basis that if it makes a referral order it can have confidence in what that will entail in the particular case. The court determines the length of the order but a Referral Order Panel determines the requirements of the order.

Offence seriousness	Suggested length of referral order
Low	3 – 5 months
Medium	5 – 7 months
High	7 – 9 months
Very high	10 – 12 months

The YOT may propose certain requirements and the length of these requirements may not correspond to the above table; if the court feels these requirements will best achieve the

aims of the youth justice system then they may still be imposed.

Youth Rehabilitation Order (YRO)

The following table sets out the different levels of intensity that are available under a Youth Rehabilitation Order. The level of intensity and the content of the order will depend upon the court's assessment of seriousness.

		Requirements of order
Standard	Low likelihood of re-offending and a low risk of serious harm	Primarily seek to repair harm caused through, for example:reparation;unpaid work;supervision; and/orattendance centre.
Enhanced	Medium likelihood of re-offending or a medium risk of serious harm	Seek to repair harm caused and to enable help or change through, for example:supervision;reparation;requirement to address behaviour e.g. drug treatment, offending behaviour programme, education programme; and/ora combination of the above.
Intensive	High likelihood of re-offending or a very high risk of serious harm	Seek to ensure the control of and enable help or change for the child or young person through, for example:supervision;reparation;requirement to address behaviour;requirement to monitor or restrict movement, e.g. prohibited activity, curfew, exclusion or electronic monitoring;

		and/or a combination of the above.
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YRO with Intensive Supervision and Surveillance (ISS) or YRO with fostering

A YRO with an ISS or fostering requirement can only be imposed where the court is of the opinion that the offence has crossed the custody threshold and custody is merited. The YRO with ISS includes an extended activity requirement, a supervision requirement and curfew. The YRO with fostering requires the child or young person to reside with a local authority foster parent for a specified period of up to 12 months.

Custodial Sentences

If a custodial sentence is imposed, the court must state its reasons for being satisfied that the offence is so serious that no other sanction would be appropriate and, in particular, why a YRO with ISS or fostering could not be justified.

Where a custodial sentence is **unavoidable** the length of custody imposed must be the shortest commensurate with the seriousness of the offence. The court may want to consider the equivalent adult guideline in order to determine the appropriate length of the sentence.

If considering the adult guideline, the court may feel it appropriate to apply a sentence broadly within the region of half to two thirds of the appropriate adult sentence for those aged 15 – 17 and allow a greater reduction for those aged under 15. This is only a rough guide and must not be applied mechanistically. The individual factors relating to the offence and the child or young person are of the greatest importance and may present good reason to impose a sentence outside of this range.