



Judicial Studies Board

ADULT COURT BENCH BOOK

Please find enclosed an update to your copy of the JSB's *Adult Court Bench Book*. This update only replaces some of the pages of the Bench Book, in the way listed in the table below.

The update has picked up on various comments made about the content of the Bench Book, and to bring about more consistency between pronouncements and is up to date to December 2005.

REMOVE PAGES ...	INSERT PAGES ...
Amendments to preliminary pages	
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Amendments to Section 1 – Checklists	
–	1-48a – 1-48c
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Work is under way to produce a further update to cover three areas:

1. To amend the checklist and pronouncements touching on bail, to reflect the 'restriction on bail scheme' being rolled out across the country as a result of the Criminal Justice Act 2003 and the Drugs Act 2005.
2. To reflect changes brought about by implementation of the Courts Act 2003 to the enforcement of fines, a scheme also being rolled out across the country.
3. To reflect changes brought about by the Serious Organised Crime and Police Act 2005 to the issuing of warrants to enter premises and search for evidence under section 8 of the Police and Criminal Evidence Act 1984.

Updated material will be available on the JSB's website (www.jsboard.co.uk) in March 2006

Any queries about the new material should be emailed to publications@jsb.gsi.gov.uk or directed in writing to:

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Preface

BY THE HONOURABLE MRS JUSTICE HALLETT

I am delighted to introduce the second edition of the Adult Court Bench Book. The first edition was issued in October 2003 and a copy was provided to every magistrate, legal adviser and District Judge (Magistrates' Courts) in England and Wales. This new edition completes the JSB's range of Bench Books for magistrates in the Adult, Youth and Family Proceedings Court that provide the information and practical tools magistrates need whilst sitting in court.

The Adult Court Bench Book Editorial Committee has encouraged feedback on the Bench Book and some changes to the format and content have been made as a result. The Bench Book was first updated in May 2004 and has now been further revised to take account of the legislative changes introduced primarily by the Criminal Justice Act 2003. This current edition represents the law as at 4 April 2005.

The Bench Book contains a number of tools to assist in the decision-making process in court. The sections of the Bench Book remain unchanged in this new edition, although a number of significant amendments within them are set out below.

- Checklists – step by step structured decision-making guides for the primary decisions faced by the court. The case management and sentencing checklists have been considerably altered to take account of the Criminal Justice Act 2003, the Criminal Case Management Framework and the new Criminal Procedure Rules.
- Guidelines – the national Mode of Trial Guidelines and the Magistrates' Court Sentencing Guidelines. Information on the role of the Sentencing Guidelines Council (SGC) and the first SGC guidelines has been added.
- Pronouncements – a set of pronouncements covering all of the most common decisions made in the Magistrates' Court. On the left-hand page are brief notes on the legal and procedural matters relating to each decision and on the right-hand page is the pronouncement itself. Pronouncements for the Criminal Justice Act 2003 sentences expected to be introduced in April 2005 have been added.
- Useful information – this section contains some other useful materials for magistrates i.e. oaths and naming systems and also a short guide on the magistrate's role outside the court. There is also space for useful local information to be added e.g. bail hostel details, police station opening times, local listing protocols, etc.

The aim of the Bench Book is to assist in the judicial process and promote national consistency of approach which in turn will increase the confidence the public have in the administration of justice. I hope that even the most experienced of magistrates will continue to find the Bench Book a useful tool when undertaking your important and valued work on the Bench.

Acknowledgements

This Bench Book has been produced with the assistance of the Justices' Clerks' Society, the Magistrates' Association and the Senior District Judge (Chief Magistrate). Grateful thanks are extended to the members of the Editorial Team for their hard work:

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All the MCCs who responded to the requests for examples of local bench books and pronouncements and all those who subsequently provided feedback on the first edition. Particular thanks go to Avon & Somerset, Dorset, Gloucestershire, Hampshire & Isle of Wight, Hertfordshire, Lancashire, North Yorkshire, South Wales, Surrey, West Midlands and Wiltshire.

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JCS STRUCTURED SENTENCING DECISION-MAKING FORM

Defendant

Offence(s)

Hearing date

1. The starting point for an average offence of this type is:

- Fine or discharge
- Community sentence – *serious enough*
- Custodial sentence – *so serious*
- Committal to Crown Court – *too serious*

2. We have looked at what makes this offence more or less serious:

Factors relating to the offence	+ <i>Aggravating</i>	- <i>Mitigating</i>

Culpability **You committed the offence** *[if necessary explain why you have come to this conclusion]*

- Intentionally
- Recklessly
- Knowing the likely outcome
- Negligently

Harm or risk of harm

3. We have taken into account facts about you *[personal mitigation]:*

4. Taking this into account we consider:

- A fine/discharge is appropriate *[go to 8 make appropriate announcement]*
- This is serious enough for us to pass a
 - High community sentence
 - Medium community sentence
 - Low level community sentence

- So serious that we must consider passing a custodial sentence [*if appropriate – if not delete*] and we are not ruling out the possibility of your being sent to the Crown Court for greater punishment than we can impose.
- Too serious for us to deal with and we are sending you to the Crown Court for sentence [*refer to appropriate pronouncement*]

5. We think the main point of our sentence should be [tick all that apply]:

- Punishment
- Reduction in crime/deterrence
- Reform and rehabilitation
- Protection of the Public
- Reparation

6. [If applicable – delete if not] We have decided to order the Probation Service to prepare a report about you [Detail report and when the court will sentence – refer to appropriate pronouncement]

Type of Report	Date and time	Location

- 7. [If applicable – delete if not] We have taken account of what the court said when asking for the report and [If applicable – delete if not] We have considered the information and proposals in the report from the Probation Service [where appropriate, explain why you are not adopting the sentencing proposal in the report]**

8. We have decided to *[decision]:*

9. We have reduced the sentence because you pleaded guilty *[Indicate reduction applied and reasons for it] [or if no guilty plea]* **If you had pleaded guilty your sentence would have been** *[explain the reduced sentenced that would have been given]*

10. We also *[detail compensation order – or give reasons for not ordering compensation – and other ancillary order]*

11. *Where appropriate explain reasons for departing from any SGC guidelines*

12. *Explain sentence using appropriate pronouncements*

Justices

Legal Adviser

Date

Pronouncements

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6. Remand on Unconditional Bail

Your case cannot go ahead today because *[state reasons for adjournment]*.

You must come back to court on [...] at [...].

At the next hearing we expect *[state what the court expects to happen at the next hearing]*.

We are also making the following directions [...].

You are granted bail.

You will shortly be able to leave the court but must come back to court on [...] at [...].

[If the prosecutor opposed bail, explain why you have granted it.]

If you do not come back to court, you will be committing an offence, a warrant may be issued for your arrest and you may be fined or sent to custody.

(If applicable:) Your trial may also take place in your absence.

If you commit an offence before the next hearing, you will be sentenced more heavily for it because you are on bail.

Do you understand?

As soon as you have received your written bail notice you may leave the court.

7. Remand on Conditional Bail

NOTES

- Consider first whether an adjournment is necessary. **See Case Management Checklist on page 1-11 for further guidance.**
- **For the guidance on the structure of a bail decision, see Bail Checklist on page 1-21.**
- The starting point for most bail decisions is that the defendant is entitled to unconditional bail.
- Bail conditions may be imposed if they are necessary:
 - to ensure attendance at court,
 - to prevent offending on bail,
 - to prevent interference with witnesses or obstruction of the course of justice,
 - for the defendant's protection (or, if a youth, their own welfare or in their own interests),
 - to ensure the defendant is available for enquiries or reports,
 - to ensure the defendant attends an appointment with their legal representative before the next hearing.
- Bail conditions must be proportionate to the risks identified and clear and precise in order that they can be effectively enforced.
- The reasons for imposing bail conditions must be announced in court.
- If bail is granted and the prosecutor has made representations against the granting of bail, the court must give reasons for granting bail.
- Advice should be sought from the legal adviser if the defendant is charged with murder, attempted murder, manslaughter, rape or attempted rape because additional provisions apply.
- Breach of bail conditions is not an offence. A defendant who is alleged to have breached conditions of bail can be arrested and brought before the court. If the breach is proved, the court can consider whether to grant bail on the same or different terms, or to remand in custody.
- Post conviction, bail can only be imposed for a maximum of 28 days.

7. Remand on Conditional Bail

Your case cannot go ahead today because *[state reasons for adjournment]*.

You must come back to court on [...] at [...].

At the next hearing we expect [...].

We are also making the following directions [...].

You are granted bail with the following conditions: *[insert details of bail conditions imposed]*.

We have put these conditions on your bail because we believe they are necessary to make sure:

[you attend court]

(and/or)

[you do not commit any offences while on bail]

(and/or)

[you do not interfere with witnesses or obstruct the course of justice]

(and/or)

[you attend appointments so that the report the court has asked for is ready for the next hearing]

(and/or)

[we are imposing these conditions [for your own protection/welfare][in your own interests]]

[Explain why you find the above grounds to be satisfied in this case. If the prosecutor opposed bail, explain why you have granted bail.]

If you do not obey the conditions the police may arrest you and bring you back before the court in custody.

If you do not come back to court, you will be committing an offence, a warrant may be issued for your arrest and you may be fined or sent to custody.

(If applicable:) Your trial may also take place in your absence.

If you commit an offence before the next hearing, you will be sentenced more heavily for it because you are on bail.

Do you understand?

As soon as you have received your written bail notice you may leave the court.

8. Remand in Custody

NOTES

- Consider first whether an adjournment is necessary – **see Case Management Checklist on page 1-11 for further guidance.**
- **For the guidance on the structure of a bail decision, see Bail Checklist on page 1-21.**
- Different provisions apply to defendants who are under 17 years of age.
- A defendant should not be remanded in custody unless they are legally represented or have been given the opportunity to apply for a representation order and have failed or refused to do so.
- The starting point for most bail decisions is that the defendant is entitled to unconditional bail.
- For imprisonable offences bail may only be withheld if:
 1. **Substantial grounds** exist for believing that if bailed (with or without conditions) the defendant would:
 - fail to surrender to custody, and/or
 - commit an offence on bail, and/or
 - interfere with witnesses or obstruct the course of justice.
 2. The charge is indictable/either way and is allegedly committed on bail.
In respect of the above exceptions the court must consider:
 - the nature and seriousness of the offence,
 - the likely sentence,
 - how the defendant has responded to bail in the past,
 - the strength of the prosecution evidence,
 - the defendant’s character, antecedents, associations and community ties,
 - any other relevant considerations.
 3. It has not been practicable to obtain sufficient information to make a bail decision.
 4. The defendant has been arrested for breach of bail conditions in the same proceedings.
 5. The defendant is already serving a custodial sentence.
 6. It is necessary for the defendant’s own protection (or if a youth, for their own welfare).
- The grounds on which bail may be withheld for non-imprisonable offences are more limited than those for imprisonable offences.
- Where bail is withheld, the statutory exceptions to bail that have been found and specific reasons for finding each exception must be announced in court.
- **Your legal adviser will be able to provide advice on matters including maximum remand periods, human rights issues and be able to assist with the preparation of reasons.**

8. Remand in Custody

Your case cannot go ahead today because [*state reasons for adjournment*].

Your case will be listed again in court on [...] at [...].

At the next hearing we expect [...].

We are also making the following directions [...].

You are remanded in custody until [...].

(EITHER:)

We have not granted you bail because we have substantial grounds to believe that if granted bail you will:

- not come back to court, (*and/or*)
- commit an offence on bail, (*and/or*)
- interfere with witnesses or otherwise obstruct the case.

We believe this because of:

- the type of offence alleged, how serious it is and the probable method of finally dealing with the case, (*and/or*)
- your criminal record and personal background, (*and/or*)
- your lack of strong links within the community, (*and/or*)
- the fact that you have previously failed to answer bail, (*and/or*)
- the strength of the evidence against you, (*and/or*)
- [...].

(OR:)

- We are satisfied that you should be kept in custody for your own protection (or welfare if a youth), (*or*)
- We are satisfied that it has not been practicable to obtain sufficient information to reach a decision about bail because of lack of time, (*or*)
- You are already a serving prisoner.

(If applicable:) The next hearing will take place over a live television link.

You will not be produced to court that day but will be able to take part in the proceedings in the same way as if you were here.

Cameras, microphones and television screens will be arranged for everybody.

This will be further explained to you before the next hearing.

9. Adjourment for Fast Delivery Pre-Sentence Report

NOTES

- **See Sentencing Checklist on page 1-39 for more guidance on the sentencing process.**
- Before ordering any report, the court should hear the details of the case in order to enable an assessment of the level of seriousness to be made.
- Do consider whether a recent PSR is available to the court instead of ordering a new report.
- If the offence is serious enough for a community penalty, consider whether a PSR can be prepared today, or whether a longer adjournment is required to enable a full risk assessment to be conducted.
- If custody is being considered, a PSR will normally be required unless the court considers that one is unnecessary. Reasons will need to be given.
- When considering a community sentence the court should indicate the following to the Probation Service.
 - Whether the offence is within the low, medium or high community sentence range.
 - Any specific requirements the court would wish the report to address.
 - The purposes that the sentence should aim to achieve.
 - The aggravating or mitigating factors of particular importance (including any statutory aggravating factors).
 - The court's reasons for the above.

9. Adjournment for Fast Delivery Pre-Sentence Report

On what we have heard so far, we are of the opinion that your offending is serious enough for a community sentence.

Our reasons for this opinion are [...].

The purpose of the proposed sentence is [...].

(If applicable:) The aggravating or mitigating factors of particular importance are [*state factors including any statutory aggravating factors*].

We are putting this matter back in the list for you to see someone from the Probation Service so that they can provide us with further information as to whether we can sentence you today.

We consider that your offence[s] fall[s] within the [high/medium/low] community range. *(If applicable:)* In particular we would like the Probation Service to consider [*insert any particular requirements you would like to be addressed in the report*].

You must co-operate with the Probation Officer in the preparation of the report and appear back in court when requested to do so.

10. Remand for Pre-Sentence Report

NOTES

- **See Sentencing Checklist on page 1-39 for more guidance on the sentencing process.**
- Before ordering any report the court should hear the details of the case in order to enable an assessment of the level of seriousness to be made.
- Do consider whether a recent Pre-Sentence Report (PSR) is available to the court instead of ordering a new report.
- If the offence is serious enough for a community penalty, consider whether a PSR can be prepared today, or whether a longer adjournment is required to enable a full risk assessment to be conducted.
- If custody is being considered, a PSR will normally be required, unless the court considers that one is unnecessary. Reasons will need to be given.
- When ordering a report the court should indicate the following.
 - The level of seriousness of the offence (serious enough or so serious).
 - Where the court is considering a community penalty, whether the offence is within the low, medium or high community sentence range.
 - Any specific requirements the court would wish the report to address.
 - The purposes that the sentence should aim to achieve.
 - The aggravating or mitigating factors of particular importance (including any statutory aggravating factors).
 - The court's reasons for the above.
- If the case is adjourned for a PSR to be prepared and the court wishes to retain the option of a custodial sentence/committal to the Crown Court for sentence, this needs to be clearly stated as part of the pronouncement. If it is not, the sentencing court may be limited to imposing a community penalty/dealing with the case in the Magistrates' Court.

10. Remand for Pre-Sentence Report

Your case cannot go ahead today because we need a report from the Probation Service.

Your case will now be heard on [...].

WHERE ONLY A COMMUNITY PENALTY IS UNDER CONSIDERATION

(Note: this will restrict the sentencing court to a non-custodial sentence.)

We are considering imposing a community sentence for your offence[s]. We are therefore requesting a [pre-sentence report] to be prepared by the Probation Service on that basis.

Our reasons for this opinion are [...].

The purpose of the proposed sentence is [...].

(If applicable:) The aggravating or mitigating factors of particular importance are [state factors including any statutory aggravating factors].

We consider that your offence[s] fall[s] within the [high/medium/low] community range. *(If applicable)* In particular we would like the Probation Service to consider [insert any particular requirements you would like to be addressed in the report].

WHERE CUSTODY/COMMITTAL FOR SENTENCE ARE BEING CONSIDERED

We consider that your offence[s] [is/are] so serious that you may go to custody. But before we decide what order to make we are requesting a pre-sentence report to be prepared by the Probation Service. You should not regard this as any indication of what sentence you may eventually receive. The sentencing court will have all sentencing options available to it including a custodial sentence [and committal to the Crown Court for sentence].

Our reasons for this opinion are [...].

The purpose of the proposed sentence is [...].

(If applicable:) The aggravating or mitigating factors of particular importance are [state factors including any statutory aggravating factors].

[Proceed to give relevant pronouncement for the remand.]

11. Remand for Medical Report

NOTES

- **A remand to hospital for a medical report can only be done if certain conditions are fulfilled. You should seek the advice of the legal adviser.**
- The provisions of the Bail Act apply in the usual way when considering whether the remand should be on bail or in custody. For further guidance see Bail Checklist on page 1-21.
- Available when an adult is charged with an offence punishable with imprisonment.
- The court must be satisfied:
 - that the defendant did the act or omission alleged, and
 - that an enquiry ought to be made into their physical or mental condition before the method of dealing with them is decided.
- The case must be adjourned to enable an examination and report to be made. The adjournment must not exceed three weeks at a time if the remand is in custody, or four weeks if the remand is on bail.
- Where the defendant appears to be mentally disordered, the court must obtain and consider a medical report before passing a custodial sentence, unless the court thinks this is unnecessary.
- Bail if granted must include the following conditions:
 - to undergo medical examination by a qualified medical practitioner, or if the enquiry is into their mental condition and the court so directs, two medical practitioners, and
 - to attend for that purpose at such institution or place, or such practitioner as the court directs, and
 - if the enquiry is into their mental condition, comply with any other directions which may be given to them.

12. Remand to Local Authority Accommodation

Your case cannot go ahead today because [*state reasons for adjournment*].

You must come back to court on [...].

In the meantime you will be placed in local authority accommodation.

We have not granted you bail because we have substantial grounds to believe that if granted bail you will:

- not come back to court, (*and/or*)
- commit an offence on bail, (*and/or*)
- interfere with witnesses or otherwise obstruct the case.

We believe this because of:

- the type of offence alleged, how serious it is and the probable method of finally dealing with the case, (*and/or*)
- your criminal record and personal background, (*and/or*)
- your lack of strong links within the community, (*and/or*)
- the fact that you have previously failed to answer bail, (*and/or*)
- the strength of the evidence against you, (*and/or*)
- [...].

(*If applicable:*) We are also imposing the following conditions [...].

If you break any of the conditions, you will be arrested and brought back to court and we may decide you should be sent to a remand centre or secure accommodation.

You must be back here in court on [...].

(*OR:*)

- We are satisfied that you should be kept in custody for your own welfare, (*or*)
- We are satisfied that it has not been practicable to obtain sufficient information to reach a decision about bail because of lack of time.

13. Committal for Sentence

EITHER

We have decided that the offence[s] you have committed [is/are] so serious that you should receive greater punishment than we can impose in this court.

OR

We have decided that given the [violent/sexual] nature of the offence[s] of [...] you should be committed to prison for a longer term than we have power to impose in order to protect the public from serious harm from you.

IN BOTH CASES

We therefore commit you to the Crown Court sitting at [...] for sentence.

(If applicable:) In addition you are committed to the Crown Court for sentence for the offence[s] of [...] so that the Crown Court can deal with you for these offences at the same time.

Do you understand?

In the meantime you are [released on bail/remanded in custody].

[Proceed to give relevant pronouncement for the remand.]

14. Committal for Trial

NOTES

- Applies to either way offences where either the defendant has elected to be tried at the Crown Court or the court has directed Crown Court trial.
- After the election/direction there will usually be an adjournment for committal papers to be prepared by the prosecution and served on the defence and the court.
- There are two forms of committal for trial:
 - section 6(1)/old style/read out committal – this is where the court will hear the evidence and be asked to decide whether there is a case to answer,
 - section 6(2)/paper committal – this is the more common type of committal where the court does not consider the evidence.
- The defendant will either be committed to the Crown Court or discharged.
- The first hearing date at the Crown Court will be for a plea and case management hearing (PCMH).
- The court will deal with applications to extend legal representation orders to the Crown Court.
- The court will remand the defendant to the Crown Court either in custody or on bail.
- The court will make directions for the conduct of the case in the Crown Court. There are standard directions for the conduct of the case in the Crown Court which take effect after committal unless varied by the magistrates' court on application by the prosecution or defence.

14. Committal for Trial

You are committed to stand your trial at [...] Crown Court.

You must attend the Crown Court on [...].

(If applicable:) In addition, you are committed to the Crown Court for sentence for the offence[s] of [...] because they are connected to the offence[s] for which you have been committed for trial.

The legal adviser will then give the following reminder to the defendant:

I must remind you that if you object to the statements that form the evidence in this case being read out at your trial, you must notify the prosecutor and the Crown Court within 14 days of today. If you fail to do so, you may lose the opportunity to cross-examine the witnesses who made the statements.

(If applicable:) Your order for legal representation is extended to cover the Crown Court proceedings.

In the meantime you are [released on bail/remanded in custody].

[Proceed to give relevant pronouncement for the remand.]

15. Sending for Trial

NOTES

- Applies to offences that are indictable only.
- The prosecution does not need to prepare committal papers for these offences.
- The defendant will usually be sent to the Crown Court on first appearance.

15. Sending for Trial

The offence[s] with which you are charged can only be tried at the Crown Court. We are therefore sending you to the Crown Court sitting at [...] for trial.

(If applicable:) We are also sending you to the Crown Court for the connected offence[s] of *[give details]*.

A [preliminary hearing/plea and case management hearing] will be held on [...].

(If applicable:) A legal representation order is granted to cover the Crown Court proceedings.

In the meantime you are [released on bail/remanded in custody].

[Proceed to give relevant pronouncement for the remand.]

16. Absolute Discharge

[Explain reasons for sentence.]

For this offence we are making an absolute discharge.

This means that although you are guilty and a record of your conviction will be kept, you are not being punished today.

Do you understand?

17. Conditional Discharge

NOTES

- The court may make a conditional discharge if it thinks that it is inappropriate to punish given the nature of the offence and the character of the defendant.
- The one condition of the order is that the defendant stays out of trouble. If they are convicted of an offence committed during the life of the order they may be sentenced for the original offence. No other conditions may be ordered.
- An order can be for up to a maximum of three years. There is no minimum term.
- The court can make ancillary orders to sentence – endorsement, penalty points, disqualification, compensation and costs, etc.
- The order must be explained in plain language so it is understood. The offender is not required to give consent.
- A conditional discharge cannot be ordered for breach of an anti-social behaviour or on a youth who has been given a final warning less than two years before.

18. Compensation as a Sentence in its Own Right

[Explain reasons for sentence.]

For the offence of [...] we are making a compensation order.

You must pay [£...] for the [injury/damage/loss] suffered by [...].

(If applicable:) We are also ordering you to pay [£...] towards the costs of the prosecution.

This makes a total of [£...] which you must pay through the court.

PAYMENT

Can you pay that amount now?

What can you pay today?

You must pay this amount by instalments of [£...] every [week/fortnight/month].

The first payment must be made on [...] and then every [week/fortnight/month] after that until you have paid the full amount.

ADVICE

If your circumstances change in any way, including changing your address, you must contact the court immediately. If you miss any payments, the court will enforce payment and you may be sent to custody.

You will be given advice on the different ways to pay.

19. Fine and Ancillary Orders of Compensation and Costs

NOTES

- The amount of the fine fixed by the court reflects the seriousness of the offence.
- The court must give priority to the payment of compensation. It can be a sentence in its own right or ordered as ancillary to another sentence. See page 3-48 for notes relating to compensation orders.
- When assessing what can be paid, the order of priority is:
 - compensation,
 - fine,
 - costs.
- In fixing the amount, the court must take into account the circumstances of the case, including the financial circumstances of the offender. The defendant should have completed a means form, if not, the court should order that one be completed.
- The court's approach should be the following.
 - Assess the level of seriousness (A, B or C).
 - Obtain details of the defendant's net weekly income and any capital.
 - Consider the fine starting point from the sentencing guidelines.
 - Consider credit for guilty plea and other factors relevant to the case, e.g. compensation.
 - Ensure that the total financial penalty remains proportional to the seriousness of the offending and can reasonably be paid by the defendant within the period set by the court – usually not more than 12 months.
- The court has a discretion as to whether to order costs and how much to order. The court must take account of the defendant's means and ability to pay before making an order.
- For wasted costs or costs from central funds, seek legal advice.
- Effective fine enforcement begins at the date the fine is imposed. Where the defendant is present, the method of payment must be addressed. If the defendant is an existing defaulter the court must, where applicable, order that deductions be made from the defendant's benefit or earnings.
- The court can seek immediate payment in full at the time of sentence. If this is not realistic, some payment should be sought on the day. The court should then order payment terms for the balance including a first payment date.

19. Fine and Ancillary Orders of Compensation and costs

[Explain reasons for sentence.]

For the offence of [...] we impose a fine of [£...].

(If applicable:) We are also ordering you to pay [£...] in compensation for the [injury/loss/damage] suffered by [...].

(If applicable:) We make no order for compensation because [...].

(If applicable:) We are also ordering you to pay [£...] towards the costs of the prosecution.

This makes a total of [£...] which you must pay through the court.

REDUCTION IN SENTENCE FOR A GUILTY PLEA

We have reduced your sentence because you pleaded guilty *[indicate the reduction applied, the reasons for it and what the sentence would have been without the reduction]*.

OR

If you had pleaded guilty your sentence would have been *[explain the reduced sentence that would have been given]*.

Do you understand?

PAYMENT

Can you pay that amount now?

What can you pay today?

You must pay this amount by instalments of [£...] every [week/fortnight/month].

The first payment must be made on [...] and then every [week/fortnight/ month] after that until you have paid the full amount.

ADVICE

If your circumstances change in any way, including a change in your address, you must contact the court immediately. If you miss any payments, the court will enforce payment and you may be sent to custody.

You will be given advice on the different ways to pay.

19. Fine and Ancillary Orders of Compensation and Costs

APPROPRIATE STARTING POINTS FOR GENERAL DAMAGES FOR PERSONAL INJURIES

Type of injury	Description	Starting point
Graze	Depending on size	Up to £75
Bruise	Depending on size	Up to £100
Black eye		£125
Cut: no permanent scar	Depending on size and whether stitched	£100-£500
Sprain	Depending on loss of mobility	£100-£1,000
Finger	Fractured little finger, recovery within month	£1,000
Loss of non-front tooth	Depending on cosmetic effect	£500-£1,000
Loss of front tooth		£1,500
Eye	Blurred or double vision	£1,000
Nose	Undisplaced fractured of nasal bone	£1,000
Nose	Displaced fracture of bone requiring manipulation	£1,500
Nose	Not causing fracture but displaced septum requiring sub-mucous resection	£2,000
Facial scar	However small, resulting in permanent disfigurement	£1,500
Wrist	Closed fracture, recovery within month	£3,000
Wrist	Displaced fracture, limb in plaster, recovery in 6 months	£3,500
Leg or arm	Closed fracture of tibia, fibula, ulna or radius, recovery within month	£3,500
Laparotomy	Stomach scar 6-8 inches (resulting from operation)	£3,500

20. Endorsement and Disqualification

ENDORSEMENT WITH PENALTY POINTS

For the offence of [...] your licence will be endorsed with [...] penalty points.

DISQUALIFICATION

For the offence of [...] you will be disqualified from driving for [...].

TOTTING DISQUALIFICATION

As you now have 12 or more points on your licence, you will be disqualified for [...].

ALL DISQUALIFICATIONS

You must not drive any motor vehicle on a road or other public place during the period of the disqualification.

If you drive whilst disqualified it is a very serious offence for which you may be sentenced to prison.

(Disqualifications 56 days or more add:) Your driving licence is revoked and will not be automatically returned to you. You must apply for a new licence towards the end of the disqualification period if you intend to drive. You may not drive until the period of disqualification is over and you have received your new driving licence.

(Disqualifications 55 days or less add:) Your driving licence will be endorsed with the details of this conviction and returned to you. The licence is not valid until the end of the period of disqualification.

Do you understand?

21. Drink-Driving Disqualification and Rehabilitation Courses

NOTES

- A group of offences carry obligatory disqualification for a minimum of 12 months. These include: driving or attempting to drive a motor vehicle when unfit through drink or drugs; driving or attempting to drive a motor vehicle with excess alcohol; driving or attempting to drive a motor vehicle and then failing to provide a specimen for analysis.
- The mandatory minimum disqualification period will be three years when the defendant has within 10 years preceding the commission of the current offence been convicted of one of these offences.
- In certain limited circumstances, the court can find special reasons for not disqualifying or for disqualifying for a shorter period. The court must give its reasons and these must be recorded in the court register. Seek legal advice if special reasons are raised.
- If the defendant agrees to participate in a rehabilitation course, the court can order that the drink-drive disqualification be reduced by a minimum of three months up to a maximum one quarter of the original disqualification.
- A scheme must be available in the area.
- The effect of the order and the fees payable must first be explained to the defendant. The fees are payable by the defendant.
- The defendant needs to give their consent to the making of the order.
- The course must be completed at least two months before the end of the reduced disqualification period.
- If the course is not completed the full disqualification will continue to run.

24. Non-endorseable Driving Disqualification

For the offence of [...] you will be disqualified from driving for [...].

You must not drive any motor vehicle on a public road or other public place during the period of disqualification.

If you drive whilst disqualified it is a very serious offence for which you may be sentenced to prison.

Your driving licence will be sent to the DVLA. You must apply for your licence to be returned to you towards the end of your disqualification period if you intend to drive. You must not drive until the period is over and you have received your driving licence from the DVLA.

Do you understand?

25. New Drivers – Revocation of Licence by DVLA

NOTES

- New drivers are in effect on a probationary period for two years. The DVLA is required to revoke the licence of a new driver who gets six or more points on their licence within the two years following passing their test.
- In these circumstances, the driver reverts to being a provisional licence holder.
- Although the court does not order the revocation, good practice requires that the court advise the defendant of what will happen.
- The court should consider the impact that ordering six or more points will have on a new driver. Ordering less than six points or a disqualification will not lead to a DVLA revocation of the driving licence.

26. Community Order

PART A

We are satisfied that your offending is serious enough for a community sentence.

For the offence[s] of [...] we are making a community order for a period of [...].

This means that you will serve your sentence in the community.

Our reasons for imposing the sentence are [...].

The purpose of the sentence is [...].

(If applicable:) The aggravating or mitigating factors of particular importance are *[state factors including any statutory aggravating factors]*.

PART B

You will have to comply with the following requirements.

[Explain the requirement[s] that you are imposing as set out on pages 3-70 to 3-93]

(If applicable:) We have departed from the Sentencing Guidelines Council's definitive guidelines because [...].

PART C

You must keep in touch with your supervisor in accordance with their instructions and tell them if you change your address. If you break any of the requirements under the order you will be brought back to court. The court will then be able to increase the order or it can revoke the order and sentence you in a different way for [this/these] offence[s]. This could include sending you to custody. You could also be sent to custody or sentenced in a different way for the offence(s) if you are convicted of another offence while the order is in force.

If your circumstances change you or your supervising officer can ask the court to review the order.

REDUCTION IN SENTENCE FOR A GUILTY PLEA

We have reduced your sentence because you pleaded guilty *[indicate the reduction applied, the reasons for it and what the sentence would have been without the reduction]*.

OR

If you had pleaded guilty your sentence would have been *[explain the reduced sentence that would have been given]*.

Do you understand?

CREDIT FOR CUSTODIAL REMAND

(If applicable:) In deciding your sentence, we have had regard to the time that you have spent on remand in custody.

Do you understand?

27. Suspended Sentence Order

NOTES

- **The legal adviser should be consulted before any custodial sentence is imposed in order to clarify statutory requirements.**
- A pre-sentence report must be obtained before imposing a suspended prison sentence unless the court gives reasons as to why a report is unnecessary.
- Only available for defendants aged 18 and over.
- A court cannot impose a custodial sentence unless it is of the opinion that the offence[s] is **so serious** that neither a fine alone nor a community sentence can be justified for the offence(s). A custodial sentence must be for the shortest term that is in the opinion of the court commensurate with the seriousness of the offence.
- The prison sentence can be suspended for a period of between 6 months and 2 years (the operational period). Any requirements imposed by the court must be completed during the supervision period. The supervision period can be between 6 months and 2 years but cannot last longer than the operational period.
- A suspended prison sentence can include one or more of the following:
 - Activity requirement;
 - Attendance centre requirement;
 - Drug treatment requirement;
 - Mental Health treatment;
 - Prohibited activity requirement;
 - Supervision requirement
 - Alcohol treatment requirement;
 - Curfew requirement;
 - Exclusion requirement;
 - Programme requirement;
 - Residence requirement;
 - Unpaid work requirement
- Before making an order with two or more requirements the court must consider whether the requirements are compatible with each other.
- The order can provide for periodical review hearings at specified intervals at which the defendant must attend. The responsible officer will prepare a report for the hearing detailing the defendant's progress in complying with the community requirements of the order.
- A defendant who fails to comply with the community requirements of the order or is convicted of any offence during the operational period of the order can be ordered to serve the whole or part of the prison sentence originally suspended.

27. Suspended Sentence Order

PART A

We are satisfied that the offence[s] [is/are] so serious that custody is the only suitable sentence. For the offence[s] of [...] we are therefore making a suspended sentence order.

Our reasons for imposing the sentence are [...]

The purpose of the sentence is [...]

(If applicable:) The aggravating or mitigating factors of particular importance are [state factors including any statutory aggravating factors]

The term of the custodial sentence will be [...]. This is made up of [...] for the offence of [...] and [...] for the offence of [...] [to be served at the same time/to be served afterwards]. *(Repeat as necessary.)*

The sentence will be suspended for a period of [...].

PART B

During a period of [...] you will have to comply with the following requirements.

[Explain the requirement[s] that you are imposing as set out on pages 3-70 to 3-93].

(If applicable:) We have departed from the Sentencing Guidelines Council's definitive guidelines because [...].

PART C (IF ORDERING PERIODICAL REVIEW HEARINGS)

The court will review the order on [...] and then [every [...] weeks/months] thereafter. You must attend these review hearings unless told otherwise.

PART D

You must keep in touch with your supervisor in accordance with their instructions and tell them if you change your address.

This order means that if you keep out of trouble and carry out all of the requirements of the order you will not go to prison for [this offence/these offences]. However, if you break any of the requirements under the order or are convicted of another offence during the next [...] you will be brought back to court and can expect to serve the prison sentence we have imposed today.

If your circumstances change you or your supervising officer can ask the court to review the order.

REDUCTION IN SENTENCE FOR A GUILTY PLEA

We have reduced your sentence because you pleaded guilty [*indicate the reduction applied, the reasons for it and what the sentence would have been without the reduction*].

OR

If you had pleaded guilty your sentence would have been [*explain the reduced sentence that would have been given*].

Do you understand?

28. Activity Requirement

NOTES

- Can be imposed as a requirement of a community order or a suspended sentence, or as a licence condition on intermittent custody (where available).
- Requires the defendant to do either or both of the following:
 - Present self to specified person(s) at specified place(s) on a specified number of days
 - Participate in specified activities on a specified number of days.
- The number of days specified in the order must not exceed 60 days.
- The specified activities may include reparative activities such as those involving contact between offender and persons affected by their offences.
- Before including an activity requirement in an order the court must consult the Probation Service and must be satisfied that it is feasible to secure compliance with the requirement. This will usually require some form of report from the Probation Service.
- The defendant must comply with the instructions of the responsible officer to participate in activities on specified days, and must comply with instructions given by or under the authority of the person in charge of the activities.
- If the activity requires the co-operation of a third party (other than the defendant and the responsible officer) their consent must be obtained.

28. Activity Requirement

[Can be imposed as a requirement of a community order or a suspended sentence, or as an intermittent custody licence condition (where available). Refer to the relevant page for the order pronouncement].

We are imposing an activity requirement.

This means that you must carry out activities under the supervision of a probation officer on a total of [...] days.

You must report to your supervisor when you are told and carry out the activities specified.

[Refer back to order pronouncement for breach and review provisions].

29. Alcohol Treatment Requirement

NOTES

- Can be imposed as a requirement of a community order or a suspended sentence.
- Requires the defendant to submit, during a period specified in the order, to treatment by or under the direction of a specified person having the necessary qualifications or experience with a view to the reduction or elimination of the defendant's dependency on alcohol.
- Before imposing an alcohol treatment requirement the court must be satisfied that:
 - the defendant is dependent on alcohol;
 - this dependency is such as requires treatment, and may be susceptible to treatment; and
 - arrangements have or can be made for the treatment to be specified, including for the reception of the defendant if treatment as a resident is to be specified.
- An alcohol treatment requirement cannot be imposed unless the defendant has expressed a willingness to comply with the requirements.
- The treatment requirement cannot be for less than 6 months.
- The treatment required must be one of the following:
 - treatment as a resident in a specified institution or place;
 - treatment as a non-resident patient in or at such institution or place, and at such intervals, as may be specified in the order;
 - treatment by or under the direction of such person having the necessary qualifications or experience as may be specified.
- The detail as to the nature of the treatment is not to be specified in the order.

31. Curfew Requirement

[Can be imposed as a requirement of a community order or a suspended sentence, or as an intermittent custody licence condition (where available). Refer to the relevant page for the order pronouncement].

We are imposing curfew requirement for a period of [...].

This means that you will have to remain indoors at [specify address/es] between the hours of [...] and [...] [every day/or specify the days when the curfew will apply]

An officer from the monitoring agency will shortly contact you and arrange to visit you at the curfew address(es). They will explain how the order works. You must let them attach the tag to your ankle and install a site monitoring unit and a telephone if there is not already a telephone at the address(es). You must not remove the tag or tamper with it or the unit. You must follow all the instructions you are given.

[Refer back to order pronouncement for breach and review provisions].

32. Drug Rehabilitation Requirement

NOTES

- Can be imposed as a requirement of a community order or a suspended sentence.
- Requires the defendant to:
 - submit to treatment by or under the direction of a specified person having the necessary qualifications or experience with a view to the reduction or elimination of the defendant's dependency on or propensity to misuse drugs; and
 - provide samples for the purpose of ascertaining whether there are drugs in his body.
- Before imposing a drug rehabilitation requirement the court must be satisfied that:
 - the defendant is dependent on or has a propensity to misuse drugs;
 - this dependency or propensity is such as requires and may be susceptible to treatment; and
 - arrangements have or can be made for the treatment to be specified, including for the reception of the defendant if treatment as a resident is to be specified.
- The requirement can only be imposed if it has been recommended to the court as being suitable for the offender by Probation.
- The requirement cannot be imposed unless the defendant has expressed a willingness to comply with the requirements.
- The treatment and testing period must be at least 6 months.
- The treatment required must be one of the following:
 - treatment as a resident in a specified institution or place;
 - treatment as a non-resident patient in or at such institution or place, and at such intervals, as may be specified in the order.
- The detail as to the nature of the treatment is not to be specified in the order.
- If the treatment and testing period is longer than 12 months the order must provide for periodical review hearings at not less than one month intervals at which the defendant must attend. The responsible officer will prepare a report for the hearing detailing the defendant's progress including details of test results. If the treatment and testing period is shorter than 12 months the court *may* order periodical review hearings.

32. Drug Rehabilitation Requirement

[Can be imposed as a requirement of a community order or a suspended sentence. Refer to the relevant page for the order pronouncement].

We are satisfied that you have a dependency or propensity to use drugs that requires and may be susceptible to treatment and that arrangements have been made for you to receive this treatment.

We therefore intend to impose a drug rehabilitation requirement for a period of [...].

This means that you must submit to treatment with a view to reducing or ending your [dependency on / propensity to use] drugs and you must provide samples, as directed by your responsible officer, each month to find out if you have drugs in your body.

This treatment will be *[specify the type of treatment from the two options below]*

As a resident at *[specify institution or place]*

As a non-resident at *[specify institution or place and the intervals at which treatment will take place]*

The court will review the order on [...] and then regularly thereafter. You must attend these review hearings unless told otherwise.

Do you agree to the making of this drug rehabilitation requirement?

[Refer back to order pronouncement for breach and review provisions].

33. Exclusion Requirement

NOTES

- Can be imposed as a requirement of a community order or a suspended sentence or as a licence condition on intermittent custody (where available).
- Prohibits the defendant from entering a specified place or area for the period specified in the order.
- An exclusion requirement in a community order cannot be for more than 2 years.
- The exclusion requirement may provide for the prohibition only to apply for certain periods and may specify different places for different periods or days.
- The court must order electronic monitoring of the exclusion requirement unless electronic monitoring is not available in the area where the place specified in the order is situated.
- However, if there is a person without whose co-operation it will not be practicable to secure monitoring, the electronic monitoring may not be included in the order without their consent.
- Where electronic monitoring is ordered the court must identify the person responsible for the monitoring.

35. Programme Requirement

[Can be imposed as a requirement of a community order or a suspended sentence, or as an intermittent custody licence condition (where available). Refer to the relevant page for the order pronouncement].

We are imposing a programme requirement.

This means that you must take part in the [...] programme.

You must attend the programme at [...] when your supervising officer tells you to for a total of [...] days

When you attend the programme you must do as you are told by those in charge of the programme.

[Refer back to order pronouncement for breach and review provisions].

36. Prohibited Activity Requirement

NOTES

- Can be imposed as a requirement of a community order or a suspended sentence or as a licence condition on intermittent custody (where available).
- Requires the defendant to refrain from participating in the activities specified in the order:
 - on a specified day or days, or
 - during a specified period.
- Before including an activity requirement in an order the court must consult the Probation Service and must be satisfied that it is feasible to secure compliance with the requirement. This will usually require some form of report from the Probation Service.
- The prohibited activity requirement may forbid the defendant having contact with a named person(s), or from participating in certain activities. It can include a requirement that the defendant does not possess, use or carry a firearm.

38. Supervision Requirement

[Can be imposed as a requirement of a community order or a suspended sentence, or as an intermittent custody licence condition (where available). Refer to the relevant page for the order pronouncement].

We are imposing a supervision requirement.

This means that you must keep all appointments with your supervising officer, if they direct you to do so, or any other person, and carry out any instructions given by them.

[Refer back to order pronouncement for breach and review provisions].

39. Unpaid Work Requirement

NOTES

- Can be imposed as a requirement of a community order or a suspended sentence, or as a licence condition on intermittent custody (where available).
- Requires the defendant to perform unpaid work at such times as instructed by the responsible officer.
- The court must be satisfied that the defendant is suitable to perform work under such a requirement. This will usually require some form of report from the Probation Service.
- The requirement can be for a minimum of 40 hours and a maximum of 300 hours in aggregate. The hours must be completed within 12 months (or within the intermittent custody licence period).
- A community order with an unpaid work requirement will remain in force until the hours have been completed.

39. Unpaid Work Requirement

[Can be imposed as a requirement of a community order or a suspended sentence, or as an intermittent custody licence condition (where available). Refer to the relevant page for the order pronouncement].

We are imposing an unpaid work requirement.

This means that you must carry out [...] hours of unpaid work in the community in your own time.

You will be supervised by an officer from the Probation Service.

You must report to your supervisor when you are told and do unpaid work for the benefit of the community for a total of [...] hours.

[Refer back to order pronouncement for breach and review provisions].

40. Antisocial Behaviour Order (ASBO)

NOTES

- Can be made on civil application or as an order ancillary to a criminal conviction.
- The behaviour complained of must be antisocial, i.e. cause harassment, alarm or distress to one or more people not in the same household as the defendant.
- The order must be necessary to protect the public from further antisocial acts in the locality.
- The minimum duration for an ASBO is two years. There is no specified maximum but the court should make the order only as long as it considers necessary for the protection of the community from the individual in question.
- The prohibitions in the order must be such as are necessary to protect people from further antisocial acts by the defendant in the locality. The prohibitions must be specific in time and place, so it is readily apparent both to the defendant and to those enforcing the order what does or does not constitute a breach.
- The prohibitions must relate to the actions committed and which the court thinks will be repeated if no ASBO is granted. They must be:
 - reasonable and proportionate,
 - realistically practical,
 - clear, concise and enforceable,
 - particular and specific about matters of time and place,
 - negative, i.e. **not** to do something. There is no power to compel an individual to do anything.They need not be confined to acts which are criminal, but may also prohibit actions which might lead to a criminal act, e.g. a prohibition on entering a shop rather than a prohibition on shoplifting.
- A court making an ASBO on civil application in respect of a youth aged under 16 is required to make a Parenting Order in respect of their parent(s) if satisfied that the Parenting Order would be desirable in the interests of preventing repetition of the behaviour which led to the ASBO. If it is not so satisfied the court must state in open court why it is not.
- A court making an ASBO on civil application in respect of a youth aged 10 to 17 years must make an Individual Support Order (ISO) if satisfied that an ISO would be desirable in the interests of preventing any repetition of the kind of behaviour that led to the making of the ASBO and the defendant is not already subject to an ISO.

40. Antisocial Behaviour Order (ASBO)

We make an antisocial behaviour order in this case.

The order will be for [...].

In reaching our decision we find that you have:

- behaved in an antisocial manner

AND

- that an order is necessary for the protection of persons in the locality from further antisocial behaviour by you [*Specify reasons why an order is necessary.*].

In deciding the length of the order, we have considered how long it is necessary to protect the community from further antisocial acts.

There are special conditions in your order. We believe these conditions are necessary to prevent further acts of antisocial behaviour. These are that you must not:

[1. ...]

[2. ...]

[3. ...].

Do you understand these conditions?

If you break any of the requirements of the order, it is a serious offence for which you can be sent to custody.

Do you understand?

You must wait for a copy of the order before you leave court.

41. Individual Support Order (ISO)

NOTES

- The court must consider making an ISO after it makes an Antisocial Behaviour Order (ASBO) on civil application against a child or young person aged 10 to 17 years.
- The court must make an ISO in respect of such a child or young person if the following conditions are fulfilled:
 - an ISO would be desirable in the interests of preventing any repetition of the kind of behaviour that led to the making of the ASBO,
 - the defendant is not already subject to an ISO, and
 - the court has been notified that arrangements for implementing ISOs are available in the area where the defendant resides/will reside.
- If the court is not satisfied that the ISO conditions are fulfilled it must state in open court why it is not so satisfied.
- Before making an ISO the court must obtain from the YOT or Social Services any information it considers necessary in order to determine whether the ISO conditions are met or to determine what requirements should be imposed.
- An ISO requires a defendant to comply, for a period not exceeding six months, with such requirements as are specified in the order and to comply with any directions given by the responsible officer with a view to the implementation of those requirements.
- An ISO will end if the ASBO, as a result of which it was made, ceases to have effect.
- The court can include any requirements in an ISO that the court considers desirable in the interests of preventing a repetition of the behaviour that led to the ASBO.
- Requirements can include directing the defendant to participate in activities; to present themselves to person(s) at specified place(s) and times; and to comply with educational arrangements.
- The defendant cannot be required to attend on more than two days in any week and directions must as far as practicable avoid conflict with the defendant's religious beliefs or work or education.
- The court must explain to the defendant in open court the effect of the ISO, the consequences of breach and the power to review the order on application.

42. Deferment of Sentence

The court does not intend to sentence you today but if you agree will do so on [...].

Until then you must [*specify requirements in detail*].

Do you agree to these requirements?

(If applicable) We are appointing [...] to check that you do comply with these requirements. They will report to the court if you do not.

If you do not comply with these requirements you may be brought back to the court before [...] and sentenced for today's offence[s].

If you are convicted of another offence before that date you may also be sentenced for today's offence[s] at that time.

When you are sentenced the court will take into account your behaviour between now and then including whether you have complied with all the requirements we have set out today.

At present we are thinking of [sending you to custody/passing a community sentence] for today's offence[s]. If you do not commit any more offences and do everything that we have ordered you to do today the court will be justified in imposing a lower sentence.

A report will be prepared so that we have all the information we need when we sentence you.

You must co-operate with the Probation Officer in the preparation of that report.

Do you understand?

Do you agree to being sentenced on another day?

You will be provided with an order setting out what you have agreed to today before leaving the court.

43. Custodial Sentence

NOTES

- **The legal adviser should be consulted before any custodial sentence is imposed in order to clarify statutory requirements such as duration, reasons and concurrent/consecutive imprisonment.**
- A PSR must be obtained before the court reaches a decision to impose a custodial sentence unless the court gives reasons as to why a PSR is unnecessary.
- The defendant should be legally represented (seek advice from the legal adviser if they are not).
- The court must not pass a custodial sentence unless it is of the opinion that the offence, or a combination of the offence and one or more offences associated with it, is so serious that neither a fine alone nor a community sentence can be justified for the offence.
- The above paragraph does not, however, prevent the court from imposing a custodial sentence if:
 - the defendant fails to express a willingness to comply with a requirement which the court proposes to include in a community order and which requires an expression of willingness, or
 - the defendant fails to comply with an order for pre-sentence drug testing.
- The approach to imposing a custodial sentence should be as follows.
 - Has the custody (so serious) threshold been passed?
 - If so, is it unavoidable that a custodial sentence be imposed?
 - If so, can that sentence be suspended?
 - If not, can the sentence be served intermittently (where available)?
 - If not impose a sentence which takes immediate effect for the shortest term that is commensurate with the seriousness of the offence.
- The court must explain in open court the reasons it is imposing a custodial sentence.
- Where the court imposes a custodial sentence for an offence committed on or after 4 April 2005 and the offender has spent time on remand in custody for that offence or a related offence:
 - the court **must** direct that the number of days for which the offender was remanded in custody is to count as time served by him as part of the sentence
 - **unless** the court is of the opinion that it is just in all the circumstances not to give a direction.
 - If no direction is given, or the court gives a direction for fewer days than the offender served on remand, the court must give reasons.
 - The number of days spent on remand should be confirmed with your legal adviser. This period will not include time spent in police detention.

43. Custodial Sentence

[Explain reasons for sentence.]

We are sending you to [prison/a young offender institution] today for a total period of [...].

This is made up of [...] for the offence of [...] and [...] for the offence of [...] [to be served at the same time/to be served afterwards]

[and [...] for the offence of [...] [to be served at the same time/to be served afterwards.]] *(Repeat as necessary.)*

We think that there is no other appropriate way to deal with you because:

(EITHER:)

the offence[s] [is/are] so serious that only a custodial sentence can be justified because [...].

(OR:)

we want to impose a [...] requirement and you have refused to agree to it.

(OR:)

(If resentencing for breach of a community sentence/order:) We are satisfied that you have wilfully and persistently failed to comply with the requirements of your community [sentence/order].

The purpose of the sentence is [...].

(If applicable:) The aggravating or mitigating factors of particular importance are [state factors including any statutory aggravating factors].

REDUCTION IN SENTENCE FOR A GUILTY PLEA

We have reduced your sentence because you pleaded guilty [*indicate the reduction applied, the reasons for it and what the sentence would have been without the reduction*].

OR

If you had pleaded guilty your sentence would have been [*explain the reduced sentence that would have been given*].

Do you understand?

43. Custodial Sentence

Unless you are released on home detention curfew you will serve half of your sentence in custody. After that time you will be released but your sentence does not come to an end. If after your release and before the end of the period covered by the sentence you commit a further offence, you may be ordered to return to custody to serve the balance of the original sentence. This may be in addition to any new punishment for that new offence.

(If applicable) You were remanded in custody for [...] days for this offence and we direct that [...] days are to count as time served by you as part of your sentence.

[If the total number of days on remand in custody is not directed to count as time served indicate the reasons for this].

(Where offender is 20 or under:) After your release you will be under supervision on licence for a further three months or until your 22nd birthday, whichever is the sooner. If you fail to comply with any of the requirements of your licence, then you may be brought back before a court, your licence may be suspended, and you may be sent back to custody.

Do you understand?

46. Referral Order

[Explain reasons for sentence.]

For the offence[s] of [...] we make a referral order for [...] months.

We will tell the Panel the following things about the offence[s]:

[List the facts found and relevant issues noted by the court.]

The Youth Offending Team will now set up a meeting of the Youth Offender Panel.

You must go to the meetings of the Panel when you are told to go. If you do not attend you may be fined.

[Names of parents/guardians/local authority representatives] must also attend the meetings.

You and the Youth Offender Panel will agree and sign a contract. This will include activities to stop you offending again. The order will start on the day you sign the contract.

If you do not sign the contract, or if you do not do the activities listed in it, you can be brought back to court and given a different sentence.

REDUCTION IN SENTENCE FOR A GUILTY PLEA

We have reduced your sentence because you pleaded guilty *[indicate the reduction applied, the reasons for it and what the sentence would have been without the reduction]*.

OR

If you had pleaded guilty your sentence would have been *[explain the reduced sentence that would have been given]*.

Do you understand?

You must wait for a copy of the order before you leave the court.

V. Ancillary Orders

47. Bind Over

NOTES

- A bind over is an order whereby a person enters into a recognisance (i.e. a sum of money) to keep the peace for a period fixed by the court.
- A court may bind over any person appearing before it, whether as a defendant or as a witness, although most commonly it will be the defendant.
- A defendant can be bound over either following the laying of a complaint (usually by the police), or as an order ancillary to sentence.
- A bind over is not a punishment but is to prevent apprehended danger of a breach of the peace. There should therefore be information before the court to justify the conclusion that there is a real risk of a breach of the peace unless action is taken to prevent it.
- A breach of the peace must involve violence or the threat of violence, which may be from the defendant or from a third party as a natural consequence of the conduct of the person the court intends to bind over. The court must be satisfied that in all the circumstances the conduct of the person it intends to bind over was unreasonable. In considering future conduct, it must be shown that there is a real risk, not a mere possibility, of such conduct continuing and of a breach of the peace occurring.
- The court must inform the person it intends to bind over of the court's intention, and allow them an opportunity to make representations.
- The court must have regard to the defendant's means before fixing the amount of the recognisance.
- The defendant's consent is required.
- The bind over must be for a fixed period.
- In addition to a requirement to keep the peace the bind over can name a person(s) for whose special protection it is made.
- If the defendant fails to agree to the bind over, they may be committed to custody. Legal advice should be sought before imposing a period in custody.

48. Football Banning Order

We are making a football banning order for a period of [...].

This means that you must not attend any regulated football match in England and Wales for the whole period of the order. You can be arrested if you try to enter any ground at which such a match is being played.

When certain football matches are being played outside England and Wales, you must report to a named police station as directed by the Football Banning Orders Authority and surrender your passport as directed by them.

You must report within five days of today [*or* within five days of your release from custody] to [...] police station.

(If appropriate:) You must attend [...] police station on [...] at [...] to have your photograph taken. If you do not attend, you may be arrested so that it can be taken.

[If appropriate, add any additional requirements.]

If you break any of the requirements of this order you can be arrested and will be committing an offence for which you could be sent to custody.

We are making the order because we are satisfied that it will help prevent violence or disorder at or in connection with regulated football matches because [*specify reasons*] and that it is the shortest order we can make in order to prevent such violence or disorder.

After two thirds of the period of the order has expired, you can ask the court to revoke it.

You will be given a copy of the order [*before you leave the court*].

Do you understand?

49. Licensed Premises Exclusion Order

NOTES

- Can only be made as an ancillary order to a sentence of the court.
- Can only be made if the offence that is being sentenced was committed on licensed premises and in committing the offence the defendant resorted to violence or offered or threatened to resort to violence.
- The court cannot make a blanket order – each of the licensed premises where the order applies must be named in the order.
- An exclusion order can be for a minimum of three months and a maximum of two years.

49. Licensed Premises Exclusion Order

We make an order forbidding you from entering the following licensed premises without the specific permission of the licensee [...].

The order will last for [...].

If you disobey the order you could be sent to prison.

50. Parenting Order

NOTES

- **Seek advice from the legal adviser when dealing with youths in the Adult Court. For further guidance see the Youths in the Adult Court Checklist on page 1-59.**
- A parenting order is made in respect of a parent or guardian with a view to providing help and support from the Youth Offending Team, including attendance at counselling or guidance sessions.
- Otherwise, when a child or young person is sentenced the court should consider making a parenting order. If the defendant is under 16 years old, then the court must make an order unless it gives reasons as to why an order is not appropriate.
- A court making an ASBO in respect of a youth aged under 16 is required to make a Parenting Order in respect of their parent(s) if satisfied that the Parenting Order would be desirable in the interests of preventing repetition of the behaviour which led to the ASBO. If it is not so satisfied the court must state in open court why it is not.
- The court can also make a parenting order when someone is convicted of failing to ensure regular school attendance by their child.
- The order can have two elements:
 - to attend counselling or guidance sessions for a period not exceeding three months,
 - any requirements which are considered desirable in the interests of preventing a further offence.
- The maximum length of an order is 12 months.
- The court should, as far as is practicable, avoid any conflict with the parent's religious beliefs, work or education.
- If the parent breaches the order, they commit a criminal offence punishable by a fine up to level 3 (£1,000).