

# Youth Justice Remand Intervention and Bail Services Factsheet

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## Scope & functions of Youth Justice

Youth Justice New South Wales (“Youth Justice”) is a unit within the Department of Communities and Justice. Youth Justice has the core legislative responsibility for:

- **Conferencing** - Administration of the Youth Justice Conferencing scheme under the *Young Offenders Act 1997*.
- **Supervision** - Delivery of community-based sentencing for young people sentenced under the *Children (Criminal Proceedings) Act 1987* and *Crimes (Administration of Sentences) Act 1999*.
- **Community Service** - Administration of the Children’s Community Service Orders scheme under the *Children (Community Service Orders) Act 1987*.
- **Detention** - Operation of Youth Justice Centres under the *Children (Detention Centres) Act 1987*.

Youth Justice works to reduce reoffending and to empower young people to participate in their communities in a prosocial way.

Outside of the core legislative responsibilities listed above, Youth Justice provides:

- 1) Remand Intervention
- 2) Court Intake Forms
- 3) Information to Court Regarding Bail reports
- 4) Bail supervision
- 5) Bail support
- 6) Bail casework (s22C)

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## Remand Intervention

A young person who has been refused bail by the Police must be brought before a court as soon as practicable. The young person will be held in a Police cell, transferred to a Youth Justice Centre or taken to Court prior to their court appearance. When Youth Justice is notified of a young person in custody having been refused bail by the Police, remand intervention activities will be initiated.

Youth Justice reviews any background information, speaks to the young person and contacts their family or carer to discuss the circumstances of the young person. Youth Justice will contact other stakeholders to review community placement options and supports that are available for the young person.

The information Youth Justice gathers through this process may be provided verbally to the Court or through a Court Intake Form.

Youth Justice is available 365 days per year to provide remand intervention services for all young people during their first appearance in court.

## Court Intake Forms

When completing a remand intervention as outlined above, Youth Justice staff complete a Court Intake Form to document the relevant information and provide it to the prosecution, defence, and court prior to the young person's first appearance, wherever possible. Any information may be subject to objection. Any information that has not yet been confirmed will be noted on the form – for example accommodation placement options or transport arrangements.

Youth Justice does not advocate for, or against, bail.

## Information to the Court Regarding Bail report

Where a young person is making a planned bail application (i.e. not making their first appearance on entering custody), the court may request Youth Justice provide an *Information to the Court Regarding Bail report*.

These reports provide more comprehensive information about the young person and the community placement options and supports that may be available to them, including but not limited to, bail supervision and bail support outlined below.

Wherever possible, Youth Justice provides *Information to Court Regarding Bail* reports within five business days of them being requested.

Where a young person under the age of 14 years is appearing at the Supreme Court for a release application, Youth Justice will provide expedited *Information to Court Regarding Bail* reports within three days of the matter being lodged with the court registry, wherever possible.

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## Bail Supervision

Youth Justice will **only** provide supervision as a condition of bail where the young person has pleaded guilty or been found guilty, of one or more of the subject offence(s).

Where guilt has **not** been established, Youth Justice does not provide bail supervision.

This policy seeks to support young people to remain in the community while ensuring young people are not subject to unnecessary monitoring and breach action.

When young people breach bail, they may be remanded in custody. Limiting bail supervision to young people who have pleaded guilty ensures that only young people who are in custody following a breach for failure to comply with supervision are young people who have had an offence proven and will receive a penalty.

This policy supports Youth Justice to deploy resources in the most effective way possible to achieve its core function to reduce re-offending by young people.

Youth Justice has no statutory functions for the provision of community-based supervision under the *Bail Act 2013*. A conduct bail condition is imposed on the young person, not on Youth Justice. Where bail conditions purport to require Youth Justice to supervise a young person on bail, Youth Justice takes the view that such conditions **do not impose a legal obligation on Youth Justice to provide supervision**. This extends to conditions such as *obey the directions of Youth Justice, accept any referrals made by Youth Justice* and similar.

Youth Justice's policy that it only provides supervision on bail where guilt has been established is long standing and is routinely monitored to ensure its effectiveness and appropriateness.

## Bail Support

In January 2023, Youth Justice incorporated bail support, an additional service stream, into its remand intervention and bail services.

Bail support cannot be a condition of bail as participation is voluntary. It permits Youth Justice staff to provide **support** to willing young people, without the support being mandated by Court. This support may include different referrals but includes linking to local community-based services, connecting with cultural groups or mentors, and liaising with the Department of Education about school attendance. Bail support is short-term assistance that is not intended to bring the young person into the Youth Justice service system.

Youth Justice takes the view that any condition to *accept bail support of Youth Justice* (or any condition in similar terms) **does not place an obligation on Youth Justice to provide this support**. Accordingly, no action will be taken by Youth Justice if the young person does not participate or engage in any bail support offered.

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## Bail Casework (s 22C)

This section applies only to young people who fall under the temporary limitation on bail under section 22C of the Bail Act.

Youth Justice will **only** provide mandated bail casework for young people if they:

- fall under the provisions of section 22C of the *Bail Act 2013*, and
- have the bail condition “Follow the reasonable directions of Youth Justice for Bail Casework (s 22C)”. (or similar)

The young person does not need to have pleaded or been found guilty of an offence for Youth Justice to provide Bail Casework (s22C).

Where Bail Casework (s22C) is added as a condition of bail, through coordination with other relevant services, Youth Justice will identify the young person’s needs and create a holistic support plan, which will include connections to services and tailored responses to address their needs. This may include support, referrals, and interventions in the following areas:

- education
- case management
- offence focused intervention
- health
- recreation programs
- cultural programs and support services
- accommodation
- NDIS

The Court can request details of the proposed Bail Casework (s22C) and, depending on the magistrate’s preferences, Youth Justice can submit:

- a brief outline of how bail casework may benefit the young person, using the ***Court Intake First Appearance Form***, on the same day as requested.
- a Bail Casework (s22C) plan prior to granting bail with five business days’ notice through an ***Information to the Court Regarding Bail*** report.

The court can also grant the young person bail and request a detailed Bail Casework 22C plan for their next court appearance.

Youth Justice will inform the Court of the level of service, frequency of contact with the young person and their carers, and interventions that the local office is able to provide to the young person, based on the young person’s level of need and the office’s operational capacity. The frequency of contact will be reviewed regularly and may be reduced once all services are in place.

The Court can request an update from Youth Justice on the young person’s progress for a future court date.

Youth Justice will inform NSW Police Force if a young person does not follow the reasonable directions of Youth Justice in relation to the Bail Casework (s22C) bail condition.

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If a condition to accept Bail Casework (s22C) or similar is added to a young person's bail but they do not meet the provisions set out in s22C of the Bail Act 2013, Youth Justice will not provide Bail Casework (s22C). Where bail conditions purport to require Youth Justice to provide a service to a young person on bail, Youth Justice takes the view that such conditions **do not impose a legal obligation on Youth Justice to provide such service**. As such, Youth Justice services will only be deployed within the parameters outlined within the Factsheet.

## Accommodation Requirements and Associated Conditions

### Pre-release accommodation conditions:

A pre-release condition is made under s. 28 of the *Bail Act 2013* and may be phrased *the young person is not to be released until suitable accommodation is available* or similar.

The young person will remain in custody while Youth Justice attempts to identify a suitable accommodation placement. Every two days Youth Justice will update the Court with a report on the young person's situation and community placement options.

When a suitable placement is identified Youth Justice will notify the Court via a *Notice by Custodian of Release* form. If all pre-release requirements are satisfied, the young person will be discharged from custody.

Youth Justice will not monitor if a young person remains at the identified address based on a pre-release accommodation condition alone.

### Other accommodation conditions:

Where the Court sets a conduct requirement condition on bail for a young person to *reside as directed by Youth Justice*, Youth Justice takes the view that such conditions do not impose a legal obligation on Youth Justice to provide such direction. Youth Justice will only monitor the young person's compliance with a condition to '*Reside as directed by Youth Justice*' if:

- they have a condition to accept bail supervision from Youth Justice,
- they have been found, or plead guilty to one of the subject offences.

The young person **will not** be held in custody whilst Youth Justice attempts to identify a suitable placement under this conduct condition.

Where a young person is under the care of the Minister for Families and Communities, DCJ Child Protection and Permanency has lead responsibility for sourcing an appropriate accommodation placement, including when an accommodation requirement under s. 28 of the Bail Act 2013 has been made.

When supporting young people to find accommodation, Youth Justice works with the young person, their network of relatives, or other community-based caregivers to find a suitable accommodation placement. If this network is exhausted without a suitable placement being identified, Youth Justice will refer to the Homelessness and/or Child Protection and Permanency service systems.

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## Bail and Accommodation Support Service (BASS)

The Youth Justice Bail and Accommodation Support Service (BASS) provides an after-hours intake service for NSW Police, from 4pm to 3am 365 days a year. This service was previously known as the Bail Assistance Line.

BASS provides police with information that helps young people gain access to bail if they are likely to be held in custody. Young people can be connected with accommodation, transport, case support and other services.

BASS also has service coordinators available during business hours who complement the work of the after-hours team. They assist Youth Justice staff in securing accommodation for young people in the community.

## Accompanying Young People

An accompaniment condition is a pre-release condition requiring the young person to stay in custody until they are released into the care or company of a person, or class of person identified by the court (accompanying party). An accompaniment condition is met when the accompanying party is at the Court or Youth Justice Centre where the young person is held, for the purpose of accompanying the young person. The accompaniment pre-release condition applies only at the point of release and cannot be extended to the provision of transport.

Youth Justice is committed to accompanying young people with this condition away from custody, helping them find someone who can, or assisting them access independent transport such as trains and buses. Youth Justice may not be able to transport every young person with an accompaniment condition. Transporting a young person who has been granted bail is dependent on the risk posed to employees, the young person and staffing availability. If Youth Justice is not the accompanying party, we will make sure that prior to release an accompanying person is at the Centre or court.

The court may consider allowing Youth Justice to identify who can accompany the young person home, to reduce the risk of a young person staying in custody unnecessarily. An example of this condition would be;

You will stay in custody until *[insert name]*, Youth Justice or a person nominated by Youth Justice is available to take you into their care or accompany you to the place you will be staying.

Note - a condition such as this does not place any obligation on Youth Justice to provide end-to-end transport to the young person. As outlined above, Youth Justice will assist young people get to where they are staying.

The Department of Communities and Justice, Child Protection and Permanency are an appropriate accompanying party whenever the condition is used on a young person in their care.

Youth Justice will inform the court when a young person is in custody because they could not meet an accompaniment condition for more than 48 hours.

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## YJNSW Bail Services Summary

### Bail Supervision

**Eligibility**

Young person has pleaded or been found guilty to one of the offences

**Example Bail Condition**

Accept the supervision of Youth Justice

**Service Provided**

- Regular face to face meetings with the young person and their carers.
- Services may include:
  - Community referrals
  - Offence focused intervention
- NSW Police Force will be notified of non-compliance.

### Bail Casework (s 22C)

**Eligibility**

**Any** young person applying for bail, who is subject to temporary limitation on bail (22C)

**Example Bail Condition**

Follow the reasonable directions of Youth Justice for Bail Casework (s 22C)

**Service Provided**

- Regular flexible meetings with the young person and their carer. The YJNSW office will decide how often meetings occur, and can share this with the court.
- Community Referrals
- Offence focused or high risk behaviour intervention
- NSW Police Force will be notified of non-compliance.

### Bail Support

**Eligibility**

At the discretion of YJNSW and the young person.

**Example Bail Condition**

Not applicable (see YJNSW Bail Services Fact Sheet)

**Service Provided**

- Dependent on the needs and request of the young person and their carers.
- Referrals
- In person meetings or electronically with the young person and their carers
- YJNSW will not take action if the young person doesn't participate.

**Information to the court**

**First Appearance Form:** A summary provided when a young person has been remanded for new offences. A brief Bail Casework 22C plan can be provided in this template on the day of court.

**Information to the Court Regarding Bail Report:** A detailed plan outlining what supports are available to the young person. Provided with 3-5 business days notice.

The **Bail Accommodation Support Service (BASS)** may help some young people to find accommodation.