Offences against children

Guidance for youth offending teams and prevention schemes
## Contents

**Introduction**  
Offences to identify a person presenting a risk, or potential risk, to children poster  

**Replacement of ‘Schedule 1 offender’ with ‘risk to children’**  
What is a ‘Schedule 1 offender’?  
What are the implications of being defined as a Schedule 1 offender?  
2004 review of Schedule 1 procedures  
Implications for YOT practice  

**Disqualification from working with children**  
Implications of a Disqualification Order  
Criteria for imposition of a Disqualification Order  
Figure 1 Process of imposing a Disqualification Order  
Practice implications for YOTs  

**Further information**
Introduction

Promoting public protection – and in particular child protection – is a central element of the work of youth offending teams (YOTs) and prevention projects. This guidance covers two important areas of work which can help provide effective responses when young people commit offences against other children:

- replacement of the term ‘Schedule 1 offender’ with ‘risk to children’
- introduction of Disqualification Orders.

This guidance describes:

- reasons for these changes
- what the changes are
- implications for the work of youth justice practitioners and managers.

Offences to identify a person presenting a risk, or potential risk, to children poster

Note that this guidance should be read in conjunction with the Offences to identify a person presenting a risk, or potential risk, to children poster. The poster consolidates legislation brought in since the Children and Young Persons Act 1933 and lists offences that can be used to identify a person presenting a risk, or potential risk, to children. It is available to download from our website (www.yjb.gov.uk), or to order a copy telephone 0870 120 7400 (stock code B298).
Replacement of ‘Schedule 1 offender’ with ‘risk to children’

What is a ‘Schedule 1 offender’?

The Children and Young Persons Act 1933 was intended to protect children from ‘cruelty and exposure to moral and physical danger’. ‘Schedule 1 offender’ is a designation given to anyone, including a young person, who has been convicted of an offence against a child that is listed in Schedule 1 to the Children and Young Persons Act 1933 and subsequent relevant legislation.

What are the implications of being defined as a Schedule 1 offender?

The term ‘Schedule 1 offender’ stays on a person’s offending history for life, and may affect future employment: yet it defines people according to their offending history, rather than the continuing risk they pose to children.

Being defined as a Schedule 1 offender can be particularly problematic for 10 to 17-year-olds:

- they predominantly offend against their peers (i.e. another child), which counts as a Schedule 1 offence: and yet a child who has committed one of these offences may be less likely to pose a continuing risk to children than an adult who has committed the same offence against a child
- the designation process is not properly linked to assessment tools (such as Asset) or to the Multi-Agency Public Protection Arrangements (MAPPA) framework.

2004 review of Schedule 1 procedures

In 2004, a multi-agency working group carried out a review of Schedule 1 and associated procedures.¹ This has resulted in two major clarifications, affecting the:

- terminology used
- offences which lead to an assessment of ‘risk to children’.

Terminology

The working group looked at whether it was necessary to have a more effective method of defining those who might pose a known risk to children. It concluded that the term ‘Schedule 1 offender’ is ill-defined, and it was agreed by all agencies that it should be replaced with:

offender who has been identified as posing a risk, or potential risk, to children

(Home Office Circular 16/2005)

¹ The group includes representatives from the probation service, Prison Service, police, social services, youth justice, health and education. The review is ongoing and further guidance may be issued once this process is completed and any necessary legislation enacted.
YOT risk management policies need to reflect this change and managers should ensure that staff are aware of the need to use the term ‘risk to children’ instead of ‘Schedule 1 offender’.

Assessment
The working group found that various pieces of child protection legislation brought in since the 1933 Act had created confusion. Many practitioners are unsure of which offences are included in the threshold for Schedule 1, and whether there are other offences that may indicate that a young person poses a risk to children. Obviously, offending history is an important factor in such assessments – but it is not the only one.

To provide some clarity, it was decided to issue a consolidated list of offences which agencies can use to identify those who may present a risk to children (see Offences to identify a person presenting a risk, or potential risk, to children poster). YOTs or prevention programmes working with an individual convicted or cautioned for an offence against a child can use this list as part of their usual risk management policies and procedures.

However, it should be noted that these offences are there for guidance, and do not yet carry statutory weight. They are simply the major offences that might be committed against children. Schedule 1 to the Children and Young Persons Act 1933 has not been repealed or amended but the review will give further consideration to whether this is necessary.

Implications for YOT practice
The working group’s clarifications have various practice implications, relating to:

- assessment
- recording and sharing information
- intervention and risk management plans.

Assessment
YOTs should use the list of offences found on the poster to trigger assessments or reviews of the risk to children that young people may present.

When using the poster, practitioners need to exercise their professional judgement at all times and should remember the following points:

- This list is not exhaustive. For example, it does not include robbery but there may be cases where features of a young person’s offences of robbery suggest an ongoing risk to other children (e.g. deliberate targeting, use of a weapon). There are also other types of offences where a child may be the intended victim, but where the primary offence is not a child-specific offence (e.g. telecommunications offences or harassment).
- New offences may be created by new legislation.
- Some offences may only indicate a risk to children in certain circumstances.
- Not all convicted or cautioned young people will necessarily pose a continuing risk to children.

---

2 The list of offences shown on the poster includes both current and repealed offences. This is due to the fact that some young people will have been convicted before the introduction of recent legislation, such as the Sexual Offences Act 2003.
There will also be cases where individuals without a conviction or caution for one of these offences may pose a risk to children. For example, there may be other non-offence related information to show that the young person presents a risk to children.

Risk to children in Asset
The ‘indicators of serious harm’ section of the Asset – Core Profile has recently been updated to include a question on whether a young person is assessed as presenting a risk to children. The Asset guidance states that, in such cases, a full Asset – Risk of Serious Harm form should be completed.

Reviewing Schedule 1 cases
Any cases currently defined as Schedule 1 should be reviewed to assess whether the young person presents any ongoing risk to children. This can be done as part of the regular review and updating of assessments (as set out in National Standards for Youth Justice Services).

Recording and sharing information
YOTs should not keep electronic or written registers of previously identified Schedule 1 offenders. Instead, cases identified as presenting a risk to children should be flagged on case management systems, and operational managers should have access to a list of all such cases being managed by the team.3

Assessments of young people who present a risk to children should be shared with other agencies when appropriate and as determined by local information-sharing protocols.

Intervention and risk management plans
Appropriate intervention and risk management plans need to be in place to address any identified risks to other children or young people. All such cases should be managed appropriately in accordance with the local YOT risk management policy (for some cases this will include referral to local MAPPA where appropriate).

YOTs should follow existing child protection procedures in any cases where there are serious concerns about the safety of a particular child or young person.

3 It is recognised that some YOT case management systems may not currently provide the facility to flag particular cases as presenting a risk to children. However, this will be included in ongoing IT system development in line with any revisions to Asset.
Disqualification from working with children

Disqualification orders were introduced by the Criminal Justice and Court Services Act 2000. Young people may be liable to receive a Disqualification Order which prohibits them from working with children if they are convicted of:

- one of a list of sexual and violent offences against a child
- supplying class A drugs to a child.

Implications of a Disqualification Order

Young people given a Disqualification Order are prevented from applying for, offering to do, accepting, or doing any work with children in a regulated position. This includes:

- working with children in paid or unpaid positions whose normal duties involve caring for, training, supervising or being in sole charge of children
- positions with normal duties involving unsupervised contact with children under arrangements made by a responsible person, for example, a parent (including babysitting).

Criteria for imposition of a Disqualification Order

The offences that could trigger the imposition of a Disqualification Order are listed in Schedule 4 to the Criminal Justice and Court Services Act 2000 and amended by the Sexual Offences Act 2003. This is a wide-ranging list but the offences that YOT staff are most likely to deal with include:

- actual bodily harm where the victim is a child
- supplying class A drugs to a child
- sexual offences against children.

The criteria under which Disqualification Orders can be imposed on young people are different to those applying to adults. In relation to young people, section 29 of the Criminal Justice and Court Services Act 2000 states that a Disqualification Order must be imposed where:

- an individual has been convicted of an offence against a child committed when the individual was under 18 and
- a qualifying sentence (a custodial sentence for a period of 12 months or more) or a relevant order (Hospital or Guardianship Order) has been imposed by a senior court and

*See Probation Circular 17/2005. Most of these offences are also now specified offences, as defined by Schedule 15 to the Criminal Justice Act 2003, which would trigger an assessment of dangerousness by the court. However, there are a small number of 'offences against a child' which are not specified offences – for example, offences of supplying or offering a Class A drug to a child – and therefore, would not require an assessment of dangerousness.*
the court is satisfied, having regard to all the circumstances, that it is likely that the individual will commit a further offence\(^\text{\textsuperscript{1}}\) against a child.

Schedule 30 to the Criminal Justice Act 2003 extends this by giving senior courts the discretion to impose a Disqualification Order in cases where no qualifying sentence is imposed in respect of the conviction. This means, for example, that a young person convicted of a relevant offence against a child and sentenced by the Crown Court to a custodial sentence of under 12 months, or given a community penalty, could be disqualified from working with children if the court considers it likely that he or she will commit a further offence against a child.

To summarise:

- In cases where a young person receives a qualifying sentence or relevant order for an offence against a child, the court must make a Disqualification Order if it considers it likely that the young person will commit a further offence against a child.
- In cases where a young person commits a relevant offence but does not receive a qualifying sentence, the court may make a Disqualification Order if it considers it likely that the young person will commit a further offence against a child.

In any case where a Disqualification Order is imposed, the court must record its reasons for doing so.

Figure 1 illustrates the process of imposing a Disqualification Order on a young person who has committed a relevant offence against a child.

In cases where a young person received a qualifying sentence but it appears to the prosecutor that the court ‘did not consider making an order’ (Home Office Circular 67/2004), Schedule 30 to the Criminal Justice Act 2003 gives prosecutors a discretionary power to apply to the court at any time after sentencing for an order to be made.

**Appealing against the order**

A Disqualification Order applies for life. However, section 31 of the Criminal Justice and Court Services Act 2000 allows for an individual to appeal against a Disqualification Order (as part of an appeal against sentence), and sections 32/33 deal with applications to the Care Standards Tribunal for the order to be reviewed.

\(^\text{1}\) A further offence against a child would include any offence listed in Schedule 4 to the Criminal Justice and Court Services Act 2000 (as amended) and found in [Probation Circular 17/2005](#). It is important to note that: ‘this is a reference to a further offence against a child in any context. The court does not have to consider whether it is likely (or unlikely) that any further offence will be committed while the offender is working with children’ (Home Office Circular 67/2004).
Figure 1 Process of imposing a Disqualification Order

Has the young person received a qualifying sentence?

Yes

Is it likely that the young person will commit a further offence against a child?

Yes

The court must impose a Disqualification Order as part of the sentence and should give its reasons for doing so.

No

No further action. The court should not impose a Disqualification Order.

The court may impose a Disqualification Order and, if so, should give its reasons for doing so.

Is the court satisfied that it is likely that the young person will commit a further offence against a child?

Yes

No further action. The court should not impose a Disqualification Order.

No
If the individual was under 18 at the time of committing the offence against a child, applications for review can be made after five years:

- if a custodial sentence was given, the five-year period starts from the date of release
- if a community sentence was given, the five-year period begins when the order is made.

**Breach**

Breach of a Disqualification Order is a criminal offence. This would apply when a young person who has received a Disqualification Order ‘knowingly applies for, offers to do, accepts or does any work with children’ (Home Office Circular 67/2004).

**Practice implications for YOTs**

The use of Disqualification Orders has implications for four areas of YOT work:

- writing pre-sentence reports (PSR)
- the possibility of imposing a retrospective Disqualification Order
- the ongoing supervision of young people subject to statutory orders
- passing on concerns about breach.

**Pre-sentence reports**

It is the court’s responsibility to decide whether or not a young person is likely to commit a further offence against a child: the YOT’s role is to provide relevant information to assist the court in reaching that decision. Practitioners therefore need to be aware of the circumstances in which a Disqualification Order can be imposed, so they can provide advice to the court via the PSR in cases where a relevant offence has been committed.

The PSR should specify, as far as possible:

- any patterns of behaviour, attitudes or circumstances which indicate that a young person may commit further offences against children
- if a young person’s situation has changed since the offence was committed, the extent to which the assessor believes that the risk of him or her committing other offences against children has been significantly reduced.

All analysis should be based on a thorough assessment and recorded via Asset (and additional specialist assessments where required).

**Retrospective disqualification**

There may be occasions when YOT staff are concerned about the possible risk to children posed by a young person who has committed a relevant offence and received a qualifying sentence, but who did not receive a Disqualification Order at the time of sentence. This is not likely to occur often but in such cases, if the YOT considers that a retrospective imposition of a Disqualification Order would make a significant contribution to the protection of other children, the case can be referred to the Crown Prosecution Service, who will consider whether to make an application to court for an order to be imposed (as described on page 7).
Supervision
There are some implications for the supervision of a young person subject to a Disqualification Order, for example, with regard to:

- his or her options for training and employment
- the type of work that can be undertaken by a 16 or 17-year-old as part of a Community Punishment Order.

Specifically, practitioners should:

- ensure that the young person understands the requirements of the order and the reasons for its imposition
- ensure that the young person is not involved in any work with children, whether paid or voluntary or in any training for such work
- re-issue the notice of disqualification when the young person completes a community sentence or post-release licence and remind him or her of the terms of the order.

Breach
It is the responsibility of the police to enforce any breaches of Disqualification Orders (Home Office Circular 67/2004). Where a YOT is concerned about a young person in breach of an order, relevant information should therefore be passed to the police.
Further information


