

## H. Factors to take into consideration – Young Offenders

1. A youth court cannot impose a custodial sentence on an offender aged 10 or 11. If the offender is aged 12, 13 or 14, a detention and training order can only be imposed by a youth court in the case of persistent young offenders. In the Crown Court, however, long-term detention in accordance with the Powers of Criminal Courts (Sentencing) Act 2000 can be ordered on any young offender without the requirement of persistence. The Crown Court may also impose an extended sentence, detention for public protection or detention for life where the young offender meets the criteria for being a “dangerous offender.” **The following guidelines apply to offenders who have not been assessed as dangerous.**

2. If a youth court is considering sending a case to the Crown Court, the court must be of the view that it is such a serious case that detention above two years is required, or that the appropriate sentence is a custodial sentence approaching the two year limit which is normally applicable to older offenders.<sup>8</sup>

3. The sentencing ranges and presumptive starting points apply to all three categories of robbery detailed above:

- **Street robbery or ‘mugging’**
- **Robberies of small businesses**
- **Less sophisticated commercial robberies**

4. **The ‘starting points’ are based upon a first-time offender, aged 17 years old, who pleaded not guilty. For younger offenders sentencers should consider whether a lower starting point is justified in recognition of the offender’s age or immaturity.**

5. Young offenders may have characteristics relevant to their offending behaviour which are different from adult offenders. Also, by statute, the youth justice system has the principal aim of preventing offending by children and young persons.<sup>9</sup> Because of this, there may be factors which are of greater significance in cases involving young offenders. Sentencers should recognise the varying significance of such factors for different ages.

6. A reduction to the appropriate sentence, taking account of seriousness, and aggravating and mitigating factors, will need to be made if an offender has pleaded guilty. The effect of applying the reduction may be that the sentence imposed for an offence at one level of seriousness may fall within the range suggested for the next lowest level of seriousness.

7. The relative seriousness of each offence will be determined by the following factors:

- **Degree of force and/or nature and duration of threats**
- **Degree of injury to the victim**
- **Degree of fear experienced by the victim**
- **Value of property taken**

---

<sup>8</sup> *W v Southampton Youth Court, K v Wirral Borough Magistrates’ Court* [2003] 1 Cr App R (S) 87

<sup>9</sup> Crime and Disorder Act 1998, s.37

8. Use of a particular degree of force is more serious than the threat (which is not carried into effect) to use that same degree of force. Depending on the facts, however, a threat to use a high degree of force might properly be regarded as more serious than actual use of a lesser degree of force.
9. If a weapon is involved in the use or threat of force, the offence will be more serious. Possession of a weapon during the course of an offence will be an aggravating factor, even if it is not used, because it indicates planning. If the offence involves a real firearm it will be more serious if that firearm is loaded. Whether the weapon is real or imitation is not a major factor in determining sentence because the amount of fear created in the victim is likely to be the same.
10. The value of the property capable of being taken as well as the actual amount taken is important.
11. The presence of one or more aggravating features will indicate a more severe sentence within the suggested range and, if the aggravating feature(s) are exceptionally serious, the case will move up to the next level.
12. In all cases, courts should consider making a restitution order and/or a compensation order. Where a non-custodial sentence is imposed, the court may also consider making an anti-social behaviour order.
13. Courts are required by section 44(1) of the Children and Young Persons Act 1933 to have regard to the welfare of the child, and under section 37 of the Crime and Disorder Act 1998 to have regard to the overall aim of the youth justice system of preventing re-offending.
14. Passing the custody threshold does not mean that a custodial sentence should be deemed inevitable.<sup>10</sup>
15. Where there is evidence that the offence has been committed to fund a drug habit and that treatment for this could help tackle the offender's offending behaviour, sentencers should consider a drug treatment requirement as part of a supervision order or action plan order.

---

<sup>10</sup> Guideline *Overarching Principles: Seriousness*, Para 1.32

---

**Street robbery or ‘mugging’  
Robberies of small businesses  
Less sophisticated commercial robberies**

**Robbery is a serious offence for the purposes of sections 226 and 228  
Criminal Justice Act 2003**

Maximum Penalty: **Life imprisonment**

**YOUNG OFFENDERS\***

<b>Type/nature of activity</b>	<b>Starting point</b>	<b>Sentencing Range</b>
The offence includes the threat or use of minimal force and removal of property.	Community Order	Community Order – 12 months detention and training order
A weapon is produced and used to threaten, and/or force is used which results in injury to the victim.	3 years detention	1-6 years detention
The victim is caused serious physical injury by the use of significant force and/or use of a weapon.	7 years detention	6-10 years detention

<b>Additional aggravating factors</b>	<b>Additional mitigating factors</b>
<ol style="list-style-type: none"> <li>1. More than one offender involved.</li> <li>2. Being the ringleader of a group of offenders.</li> <li>3. Restraint, detention or additional degradation, of the victim.</li> <li>4. Offence was pre-planned.</li> <li>5. Wearing a disguise.</li> <li>6. Offence committed at night.</li> <li>7. Vulnerable victim targeted.</li> <li>8. Targeting of large sums of money or valuable goods.</li> <li>9. Possession of a weapon that was not used.</li> </ol>	<ol style="list-style-type: none"> <li>1. Unplanned/opportunistic.</li> <li>2. Peripheral involvement</li> <li>3. Voluntary return of property taken.</li> <li>4. Clear evidence of remorse.</li> <li>5. Ready co-operation with the police.</li> <li>6. Age of the offender.</li> <li>7. Immaturity of the offender.</li> <li>8. Peer group pressure.</li> </ol>

\* The ‘starting points’ are based upon a first-time offender aged 17 years old who pleaded not guilty. For younger offenders, sentencers should consider whether a lower starting point is justified in recognition of the offender’s age or immaturity.