

Probation & Welfare Service

The Probation and Welfare Service and the Children Act 2001



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The main sections under the [Children Act 2001](#) relating to the Probation and Welfare Service can be found in Parts 8, 9 and 10. The main areas of work for the Service are:

Part 8

- Family conferences

Part 9

- Probation reports
- Community sanctions
- Parental supervision orders
- Deferment of detention
- Detention and supervision

Part 10

- Supervision after detention
- Voluntary aftercare

Family Conference (part 8 s 78- 87)

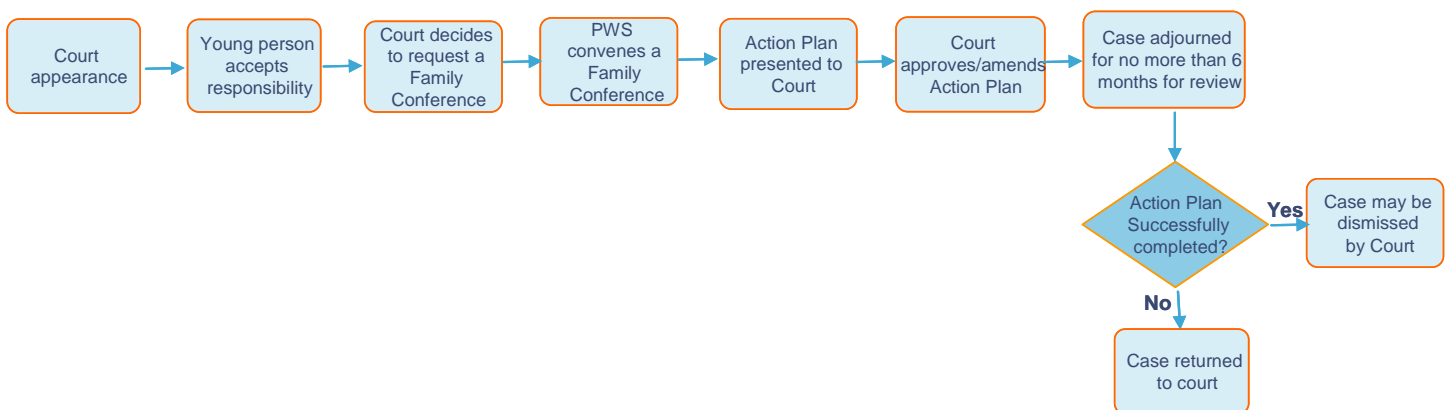
The Children Act 2001 makes provision for the Probation and Welfare Service to convene a Court ordered Family conference. This section was commenced on 29th July 2004.

A Family Conference is based on principles of restorative justice which, in essence, means healing the harm done to victims, while holding the offender accountable for his or her actions. The aim of the Family Conference is to divert the young person, who has accepted responsibility for their behaviour, from court, conviction and custody, and from committing further offences.

A Court ordered family conference takes place at the stage when a young person is charged with an offence and appears in Court:

- If the young person accepts responsibility, and
- The Court considers an action plan desirable, and
- The child and child's family agree to participate, then
- The Court may direct the Probation and Welfare Service to arrange for the convening of a family conference.

The family conference is held no more than 28 days later.



Family Conference Process

The diagram above illustrates the phases of a Family Conference.

It involves the young person, members of his/her family, the victim and any other relevant people. It is organised and run by the Probation and Welfare Service. At the meeting an opportunity is given to the young person and the victim to express their views, as well as family members, and others participating. No statement made or information obtained from the conference is admissible as evidence.

The action plan may include

- an apology to the victim;
- financial or other reparation to any victim; and
- initiatives within the child's family and community that might help to prevent re-offending.

The action plan is then submitted to the Court for approval or amendment. The Court can order the young person to comply and be supervised by the Probation and Welfare Service. The Court then adjourns the case for a period of up to six months, when a review takes place. If the Court is satisfied that the child complied with the plan, then the charge may be dismissed. If the child fails to comply with the plan, the probation officer can apply to have the case returned to Court and the Court can resume proceedings and progress to the next stage.

Probation Reports (part 9 s 99 – 107)

Under the Children Act 2001, it is likely that probation reports will be requested in the majority of cases coming before the Juvenile Court. The Act requires that courts shall request a probation officer's report where it is of the opinion that the appropriate decision would be to impose a community sanction, detention or detention and supervision. In addition, under the Act all reasonable endeavours should be made to ensure reports are lodged in Court four working days prior to the hearing and prepared in the minimum period necessary but not in any case exceeding 28 days.

Community Sanctions (part 9 s 115-141)

The requirement to have a range of community based sanctions available to the Courts is an essential component of the Children Act if effect is to be given to the policy of detention being an absolute last resort.

The Children Act makes provision for 10 community sanctions. 9 of these involve the Probation Service and seven relating to the Service are new. (The 8th sanction being the curfew order 'restriction on movement').

Imposition of a community sanction can take place when a court has:

- considered a probation officers report;
- heard the evidence of any person whose attendance it may have requested; and
- has given the parent or guardian an opportunity to give evidence.

The Court must consider that a community sanction is the most suitable way of dealing with the case.

The following are the community sanctions which involve the Probation and Welfare Service and Young Persons' Probation:

1. Community Service Order

This is an existing order, available to young offenders aged 16 and 17 years. Community service orders can range from 40 – 240 hours and are in lieu of detention.

2. Day Centre Order

The aim of this order is to help improve the child's behaviour and prevent him from committing further offences by attendance at specified day centres for the purpose of participating in an occupation or activity or receiving instructions. The Day Centres shall be inspected and certified. Programmes shall be offered both in the day centre and where relevant outside of the centre. The Day Centre order requires a young person to attend the Day Centre for a maximum of 90 days and not longer than 6 months. It is likely that the programme will be available in the evenings and on weekends so as not to interfere with school, training or employment.

3. Probation Order

This is an order under section 2 of the Act of 1907.

4. Probation (training or activities programme order)

This is in fact a Probation Order with a condition to undertake and complete a suitable programme recommended by a probation officer. The programme may be managed by the Probation and Welfare Service or other body recommended to the Court by the Service. It need not necessarily cater exclusively for children found guilty of offences.

5. Probation (intensive supervision order)

This order requires a young person to

- intensive supervision by a Probation Officer;
- reside at a specified residence;
- undertake education, training or treatment;
- The order cannot exceed 180 days and if the order is over 90 days it is subject to review after 60 days.

The programme may be managed by the Probation and Welfare Service or other body recommended to the Court by the Service. It need not necessarily cater exclusively for children found guilty of offences.

6. Probation (residential supervision) order.

A court may order that a child shall reside in a hostel residence. No residence can be used unless the Director of the Probation and Welfare Service has inspected and certified it as suitable. This will be reviewed annually. The hostel residence should be reasonably close to the young person's usual place of residence or to any place where the young person is receiving education or training or is employed. This order should not exceed one year's duration.

7. Suitable Person (care and supervision) order.

A Court may assign a child to the care of a person, including a relative. The parents or guardian must consent in writing and the Probation Service must inform the Court that a suitable person is available. This order should not exceed 2 years.

8. Mentor (family support) order

The court may assign a child to a person, to help, advise and support the child and the child's family in its efforts to prevent the child from committing further offences and monitor the child's behaviour generally. The child and the parents must consent and a mentor must be available. This order should not exceed 2 years.

9. Restriction on movement order.

This is basically a curfew order supervised by the Gardai. The curfew is between 7pm and 6am and can include the condition to stay away from a specified area.

10. Dual Order

This is an order which requires a young person to: be under

- Be under the supervision of a probation officer on a probation order * (link to probation order); **OR**
- attendance at a day centre for not more than 90 days combined with a restriction of movement order.

There are provisions in the Act for dealing with non-compliance with community sanctions. These involve returning the case to Court.

Other Interventions

In addition to these community sanctions there are other intervention formats:

1. Parental Supervision Orders (ss 111,112)

In any proceedings in which a child is found guilty of an offence, the court may make an order for the supervision of the child's parents. Before making an order the Court shall obtain and consider information about the family and social circumstances and the likely effect of an order on these circumstances. In addition parents must be given an opportunity to be heard.

A parental supervision order may order parents to do any or all of the following:

- undergo treatment for alcohol or substance abuse;
- participate in a parenting course;
- control or supervise the child;
- comply with other instructions.

2. Deferment of Detention (s 144 –146).

A court may under section 142 impose a detention order. However under section 144 a court may order deferment of a detention order if there is no place available in a children detention school or for any other sufficient reason; for example a 'last chance' to comply with a community sanction.

If the deferment is for any reason other than lack of available places in a detention school, the court may adjourn the matter for up to one year.

The child will be placed under the supervision of a Probation and Welfare Officer during the deferment period.

The resumed court hearing shall take place not later than one year after the adjourned hearing and a probation report will be required. The Court can then impose the period of detention, suspend all or part of the period of detention or impose a community sanction.

3. Detention and supervision (s151)

This order allows for a period in detention followed by supervision in the community. Half of the period shall be spent in detention and half in the community. The supervision shall commence on the young person's release.

4. Supervision in the community (s207)

This refers to the 'placing out' of a child from a Children Detention School after consultation with the Director of the Probation and Welfare Service. The child will be under the supervision of a Probation Officer.

5. Voluntary Aftercare (S 208) makes provision for voluntary supervision by the Probation Service after discharge from the school.